

ment employees, of Newport, R. I., protesting against imprisonment of certain Hindus in this country and demanding that their persecution cease; to the Committee on Foreign Affairs.

By Mr. CURRY of California: Petition of Liberty Parlor, No. 213, Native Sons of the Golden West, and Galt Parlor, No. 243, Native Sons of the Golden West, of California, opposing oriental immigration; to the Committee on Immigration and Naturalization.

Also, petition of Napa Parlor, No. 62, Native Sons of the Golden West, opposing oriental immigration; to the Committee on Immigration and Naturalization.

Also, petition of Hon. William D. Stephens, governor of California, urging an adequate tariff on foreign-grown beans; to the Committee on Ways and Means.

By Mr. GALLAGHER: Petition of St. Michael the Archangel Society, of Chicago, Ill., concerning Lithuanian independence; to the Committee on Foreign Affairs.

By Mr. JAMES: Petition of Baraga Council, Iron Mountain, Mich., opposing the Army taking over the welfare work at the various camps; to the Committee on Military Affairs.

By Mr. LINTHICUM: Petition of Public School Teachers' Association, of Baltimore, Md., indorsing the so-called Smith-Towner bill; to the Committee on Education.

Also, petition of Bishop John Hurst, of Baltimore, Md., favoring passage of House resolution 319 for an investigation of the race riots; to the Committee on Rules.

Also, petition of McCormick & Co., of Baltimore, Md., regarding the longshoremen's strike; to the Committee on the Judiciary.

Also, petition of Charles S. Baldwin, of Baltimore, Md., supporting the Myers bill prohibiting the experimentation on living dogs; to the Committee on Agriculture.

By Mr. MOORE of Pennsylvania: Petition of the Philadelphia Board of Trade, urging the passage of the export finance bill, amending the Federal reserve act; to the Committee on Banking and Currency.

By Mr. RAKER: Petition of D. D. Ferguson and Mrs. D. Ferguson, of Portola, Calif., protesting against Senate bill 2906; to the Committee on Interstate and Foreign Commerce.

Also, petition of S. H. Tyler & Son, Sanborn, Vail & Co., and H. M. Heinemann Sons, all of San Francisco, Calif., opposing House bill 8315; to the Committee on Interstate and Foreign Commerce.

Also, petition of Big Valley Parlor, No. 211, Native Sons of the Golden West, of Bieber, and Dolores Parlor, No. 208, Native Sons of the Golden West, of San Francisco, both in the State of California, urging prohibition of immigration from oriental countries; to the Committee on Immigration and Naturalization.

Also, petition of California Club, of San Francisco, Calif., favoring preservation of suitable acreage in the Sequoia forests in California; to the Committee on Agriculture.

Also, petition of Shasta Water Co., of San Francisco, Calif., favoring the Dallinger bill to prohibit the exportation of sugar; to the Committee on Interstate and Foreign Commerce.

Also, petition of Western Forestry and Conservation Association, of Portland, Oreg., urging sufficient appropriation for proper attention to forest experiment stations; to the Committee on Agriculture.

Also, petition of California Joint Stock Land Bank, of San Francisco, Calif., protesting against any attempt to weaken the farm-loan act; to the Committee on Agriculture.

Also, petition of Fageol Motors Co., of Oakland, Calif., indorsing House bill 9412; to the Committee on Military Affairs.

Also, petition of Fageol Motors Co., of Oakland, Calif., indorsing Townsend good-roads measure; to the Committee on Roads.

Also, petition of California Retail Grocers' and Merchants' Association, protesting against House bill 8315; to the Committee on Interstate and Foreign Commerce.

By Mr. RANDALL of Wisconsin: Petition of eight Lithuanian organizations of the city of Kenosha, Wis., requesting official recognition of the independence of the Lithuanian Government; to the Committee on Foreign Affairs.

By Mr. ROWAN: Petition of L. D. Gardner, of New York, favoring passage of the Air Service appropriation; to the Committee on Appropriations.

Also, petition of the Wholesale Coal Trade Association of New York, presenting facts pertaining to the present coal-strike crisis; to the Committee on the Judiciary.

Also, petition of Julian Loebenstein, favoring universal military training as prescribed by the Kahn-Chamberlain bill; to the Committee on Military Affairs.

SENATE.

THURSDAY, November 6, 1919.

(Legislative day of Monday, November 3, 1919.)

The Senate met at 11 o'clock a. m., on the expiration of the recess.

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ball	Hitchcock	Myers	Smith, Md.
Brandegee	Johnson, Calif.	Nelson	Smith, S. C.
Calder	Johnson, S. Dak.	New	Smoot
Capper	Jones, N. Mex.	Norris	Spencer
Chamberlain	Jones, Wash.	Nugent	Sutherland
Colt	Kellogg	Overman	Thomas
Curtis	Kendrick	Page	Townsend
Dial	Keyes	Phelan	Trammell
Dillingham	Knox	Pittman	Underwood
Edge	La Follette	Polindexter	Wadsworth
Elkins	Lenroot	Pomerene	Walsh, Mont.
Gay	Lodge	Ransdell	Watson
Gerry	McCormick	Reed	Williams
Gronna	McCumber	Robinson	Wolcott
Harris	McLean	Sheppard	
Harrison	McNary	Smith, Ariz.	
Henderson	Moses	Smith, Ga.	

Mr. DIAL. I wish to announce that the junior Senator from Arkansas [Mr. KIRBY] is absent on official business.

Mr. CURTIS. I desire to announce that the Senator from Maryland [Mr. FRANCE] and the Senator from Maine [Mr. FERNALD] are absent on official business.

Mr. GERRY. I wish to announce that the Senator from Colorado [Mr. PHIPPS], the Senator from Massachusetts [Mr. WALSH], the Senator from Iowa [Mr. KENYON], and the Senator from South Dakota [Mr. STELLING] are absent at a meeting of the Subcommittee of the Committee on Education and Labor. I wish also to announce that the senior Senator from Alabama [Mr. BANKHEAD] is detained from the Senate by illness and to announce the absence on official business of the Senator from Arizona [Mr. ASHBURST], the Senator from Florida [Mr. FLETCHER], the junior Senator from Tennessee [Mr. MCKELLAR], the Senator from Arkansas [Mr. ROBINSON], the Senator from Virginia [Mr. SWANSON], and the Senator from North Carolina [Mr. SIMMONS]. The Senator from Utah [Mr. KING], the Senator from Oklahoma [Mr. GORE], the senior Senator from Kentucky [Mr. BECKHAM], the junior Senator from Kentucky [Mr. STANLEY], and the senior Senator from Tennessee [Mr. SHIELDS] are absent on public business.

The VICE PRESIDENT. Sixty-five Senators have answered to the roll call. There is a quorum present.

RETURN OF MORTAL REMAINS OF AMERICAN SOLDIERS.

The VICE PRESIDENT. As in legislative session, and in accordance with House concurrent resolution 36, adopted yesterday, for the appointment of a joint committee of the two Houses to represent the Congress at the port of New York on the arrival of the steamship *Lake Daraga*, on or about November 9, bearing the first bodies of the American soldiers from the fields of the World War, the Chair appoints as the Senate members thereof Mr. WADSWORTH, Mr. CHAMBERLAIN, Mr. NEWBERRY, Mr. BECKHAM, Mr. MCCORMICK, and Mr. POMERENE.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. SMOOT:

A bill (S. 3379) to establish the Utah National Park in the State of Utah; to the Committee on Public Lands.

A bill (S. 3380) granting a pension to Frances D. Miller; to the Committee on Pensions.

By Mr. WADSWORTH:

A bill (S. 3381) for the relief of Gertrude Lustig; to the Committee on Claims.

A bill (S. 3382) to authorize the Secretary of War to transfer to the Chief of Engineers, United States Army, for the execution of civil works, surplus property pertaining to the Military Establishment;

A bill (S. 3383) to increase the efficiency of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, and Public Health Service;

A bill (S. 3384) to provide for burial and transportation of remains of certain officers and enlisted men of the reserve forces of the United States;

A bill (S. 3385) to authorize the War Department to restore the Chickamauga and Chattanooga National Park to its condi-

tion prior to use for military purposes during the war with Germany, and to appropriate the necessary funds therefor;

A bill (S. 3386) to provide for the assistance of civilian aviators in distress by authorizing the Secretary of War to sell at cost price at aviation posts or stations gasoline, oil, and aircraft supplies to persons in charge of civilian aircraft landing upon or near said posts; and

A bill (S. 3387) for the relief of dependents of Lieuts. Jean Jagou and Fernand Herbert, French military mission to the United States; to the Committee on Military Affairs.

By Mr. ELKINS:

A bill (S. 3388) granting an increase of pension to Lydia M. Fleming; to the Committee on Pensions.

By Mr. OWEN:

A bill (S. 3389) for the relief of Thurman A. Poe; to the Committee on Claims.

TREATY OF PEACE WITH GERMANY.

The Senate, as in Committee of the Whole and in open executive session, resumed the consideration of the treaty of peace with Germany.

Mr. LA FOLLETTE. Mr. President—

Mr. MYERS. Will the Senator yield to me for a short statement in the nature of a question of personal privilege?

Mr. LA FOLLETTE. I would be very glad to yield to the Senator. How much time will the Senator occupy?

Mr. MYERS. Two or three minutes.

Mr. LA FOLLETTE. Certainly, I will yield.

Mr. MYERS. I thank the Senator.

I notice in this morning's Washington Post that the account of the Senate proceedings of yesterday on the proposed amendment to the peace treaty offered by the Senator from Wisconsin [Mr. LA FOLLETTE] contains this statement:

Prior to the vote Senator MYERS, Democrat, announced that he would support both the La Follette amendment and the amendment, still pending, of Senator GORE, which stipulates a referendum to the people before engaging in war.

That statement is true in so far as it says I announced that I would support the amendment of the Senator from Wisconsin [Mr. LA FOLLETTE]. I not only announced that I would support it, but I voted for it. However, I did not say that I would support the amendment offered by the Senator from Oklahoma [Mr. GORE] to refer to a vote of the people the question of making a declaration of war. I made no reference to that amendment. I do not intend to vote for it and never have intended to vote for it.

Ordinarily I pay no attention to mistaken statements in newspaper accounts about my part in the Senate proceedings, because now and then mistakes unintentionally occur about some Senator, and ordinarily they are of no consequence. I assume, of course, and am very sure that this was just an unintentional mistake on the part of the reporter. Probably he was not here when I made my remarks.

This, however, is of some consequence to me. I do not want, without denial, to be portrayed to the public as in any manner a pacifist, to any degree or any extent whatever. If there is one thing in the world which most emphatically I am not it is a pacifist of any kind or character. I would not under any circumstances vote to refer the question of a declaration of war to the people of the country. I think it would be absurd. The Constitution makes the Congress the judge of that, and I think the Congress should discharge that duty without shrinking or shirking. If Members of Congress feel that they are not capable of doing it, they should resign and let their constituents elect other Members who will discharge that constitutional duty.

I voted yesterday for the amendment of the Senator from Wisconsin, but I do not know that I shall vote for any other amendment to the peace treaty. I have no intention of voting for any other. I intend to vote for the reservation offered by the Senator from Utah [Mr. KING] to withhold our assent from Part XIII of the peace treaty, but I do not know whether or not I shall vote for any other reservation. I have just now no intention of voting for any other. It is only in the last few weeks that I came to the conclusion to vote for the amendment offered by the Senator from Wisconsin. It is only in the last few weeks that I have come to the conclusion that it would be for the best interests of this country and the world to strike Part XIII from the peace treaty or reserve it from our ratification of the treaty.

Had the radical element which appears now to dominate organized labor in this country not come out in the open and disclosed its purpose so soon, I should probably not have voted for the amendment of the Senator from Wisconsin, but I could not but do so under existing circumstances as I now see them.

In this connection, I will say that I am well pleased with the reelection of Gov. Coolidge, of Massachusetts. There are some things which are above party. Among them are the maintenance

of the American Republic, the upholding of law and order, the protection of organized society, and the defense of stable government. When my party comes out clearly, fairly, candidly, firmly, openly, and aboveboard and declares for those things, it has my earnest wishes for success. If it has the opportunity to do so and does not, it does not deserve success; neither would any other party under like circumstances.

Mr. KNOX. Mr. President—

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Pennsylvania?

Mr. LA FOLLETTE. I do.

Mr. KNOX. Mr. President, with the consent of the Senator from Wisconsin, I should like to send to the desk a brief, simple, and general reservation to America's ratification of the treaty of Versailles and its league of nations, which I propose to the pending treaty; and I ask the indulgence of the Senate for 5 or 10 minutes in order to explain the purpose of the reservation.

Mr. LA FOLLETTE. I yield to the Senator for that purpose.

Mr. KNOX. I ask to have the proposed reservation read.

The VICE PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

Resolved, That the Senate of the United States unreservedly advises and consents to the ratification of this treaty in so far as it provides for the creation of a status of peace between the United States and Germany.

Resolved further, That the Senate of the United States advises and consents to the ratification of this treaty, reserving to the United States the fullest and most complete liberty of action in respect to any report, decision, recommendation, action, advice, or proposals of the league of nations or its executive council or any labor conference provided for in the treaty, and also the sole right to determine its own relations and duties and course of action toward such league or toward any member thereof, or toward any other nation in respect to any question, matter, or thing that may arise while a member of such league, anything in the covenants or constitution of such league or the treaty of Versailles to the contrary notwithstanding, and also reserves to itself the unconditional right to withdraw from membership in such league and to withdraw from membership in any body, board, commission, committee, or organization whatever set up in any part of the treaty for the purpose of aiding its execution or otherwise, effecting by such withdrawal as complete a release of any further obligations and duties under such treaty as if the United States had never been a party thereto. It is also

Resolved further, That the validity of this ratification depends upon the affirmative act of the principal allied powers named in the treaty of peace with Germany approving these reservations and certifying said approval to the United States within 60 days after the deposit of the resolution of ratification by the United States.

Mr. KNOX. Mr. President, the only purpose and effect of this reservation is to make the United States a consulting member of the league of nations; to put the United States in the league, in principle, without making us an integral part of the league in all its complicated detail and in all its perilous and questionable obligations; to put the United States in position to exert its influence or not when and for whatever purpose this Nation may or may not deem it good to do so through the league; to put the United States in touch with the league, but to prevent the United States from being interned or interred in the league; and to avoid the pretense of undertaking to do things which we should, we all know, be unable to do without alike violating the Constitution of the United States and doing violence to the will and the very nature of the American people.

This war found us in a situation where we were free to serve the world and to stand up for international right. We did so. I hope we may ever do so.

Be it remembered that it was precisely as a consulting member of the alliance, and bound only by the national conscience, that America brought her military power and her vast resources to the aid of those who fought for right, and by doing so brought victory in this war. If we can carry on war as an independent member of an alliance, may we not carry on peace as an independent member of a league? It is no strange policy that I propose, no heartless aloofness from world affairs. It was by being faithful exactly to the policy I now advocate that America had become great enough to bring victory. It was in adhering to this very policy that America did, when the test came, bring victory and save the world.

To declare, as I have before suggested, that "if a situation should arise in which any power should, directly or indirectly, menace the freedom and peace of Europe, the United States would regard such situation with grave concern as a menace to its own freedom and peace, and would consult with other powers affected, with a view to concerted action for the removal of such menace," is but to generalize as a policy what has been the specific action of America. On no great occasion could America be asked to do more for the world. Under no league could America do more for the world than she has done by the guidance of her own conscience. Declared or not, the above is the approved policy of America. With or without any relation

whatsoever to the league, American diplomacy can stand upon that policy. By becoming a consulting member of the league, the league, too, becomes available to us for the maintenance of that policy. On great occasions America will not be found wanting. By little occasions it is far better that America be not distracted from her real work, that the energy needed for national progress be not dissipated in internationalism.

It is as a consulting member of the league, free and true to ourselves, that we shall best serve America and that we shall best serve the world. As a consulting member of the league we shall be able to use its machinery for every good purpose; we shall not be imperiled of being ground and destroyed in the cogs of that machinery.

By becoming a consulting member of the league I wish to see America do a great part in service to the world. By becoming more, America would stultify herself for the service of right in the world and would at the same time put in jeopardy her own precious heritage.

Not under any circumstances would I sacrifice the spirit, the character, the nationalism of America, or the Constitution and the institutions that have bred America's manhood and womanhood. If we plunge America into this welter of internationalism we shall destroy America, and, in the name of good to the world, we shall make our country incapable of good either to the world or to ourselves.

As a consulting member of the league we shall do our full duty to the rest of the world. We shall be free to turn calmly to the great problems we have to meet here at home. Free and untrammelled, with safe frontiers, America's task is to perfect America's own national life in America's own way. Only so can America—North, South, East, and West—the America we all love, endure. Only so can America irradiate an ever higher influence in the world.

Internationalism would destroy us at home. Nationalism will save us at home. If there is anything through which we can do good to the world it is our Americanism. If we sacrifice our Americanism we destroy America. If we sacrifice that distinctive thing we destroy the hope that the world has in America. We are the salt of the earth, and for the earth "Salt is good; but if the salt have lost his savour, wherewith shall it be seasoned? It is neither fit for the land, nor yet for the dunghill; but men cast it out. He that hath ears to hear, let him hear." Thus spoke the Savior of mankind, and, to paraphrase another divine expression, What will it profit America to gain the world and lose its own soul?

Mr. LA FOLLETTE resumed and concluded the speech begun by him yesterday. The speech entire is as follows:

November 5, 1919.

Mr. LA FOLLETTE. Mr. President, the Constitution provides that the President of the United States shall have "power by and with the advice and consent of the Senate to make treaties, provided two-thirds of the Senators present concur."

That this constitutional provision was disregarded by the President in making the treaty now before the Senate for concurrence can not successfully be denied. Had the President obeyed the Constitution in making this treaty by and with the advice of the Senate, the treaty would have been so framed as to have embodied the views of the Senate as well as those of the President, and whenever the treaty came to the Senate for formal action its early concurrence therein would have been a foregone conclusion.

Through the interchange of views between the President and the Senate contemplated by the Constitution while the treaty was in the process of making, differences of opinion, if any, would have been discovered and reconciled in the legal, orderly course of procedure commanded by the Constitution. In such interchange of views neither party would have had an advantage over the other. Under such procedure the President and the Senate would have been equally free to consider the proposed treaty on its merits, and neither could have been coerced into surrendering honest convictions as an alternative to abandoning the treaty. This, sir, is the rational procedure ordained by the fathers in their wisdom when they framed our Constitution.

It has been asserted here and elsewhere that business is stagnant, prices exorbitant, labor and capital unsettled and resentful, and industrial conditions alarming in the extreme, because this treaty was not at once concurred in and duly ratified. Such a statement wholly ignores the real cause of the grave industrial situation which confronts us; but if it were true in any sense that the nonconcurrence in the treaty up to the present time contributed in any degree to the present industrial unrest, then, sir, the responsibility for that situation rests upon one man, and that man is the President of the United States. For it is his departure from the letter and spirit of the Constitution

in the making of the treaty that has led the Senate to spend months in its consideration, and may result in its final rejection.

I do not know why the President in making this treaty refused to obey the plain mandate of the Constitution, and refused to follow the precedents established by the great Presidents Washington, Adams, Jefferson, Jackson, Lincoln, Grant, and others who sought and received the advice of the Senate in all stages of treaty making where they felt that they were dealing with questions which were vitally important to the country upon which the opinion of the Senate should be taken.

If, sir, the President had in mind and expected that there would be written into this treaty covenants and provisions which more than a third of the Senate might feel impelled, under their oaths, to reject, had they been advised with while the treaty was being framed, then the conduct of the President is easily understood in refusing to advise with the Senate while the treaty was in the making. If before the negotiations were complete the Senate had advised the President that it disapproved of certain articles, there would have been no excuse for the President to incorporate such articles in the treaty; and if, nevertheless, they were incorporated and written in the treaty and the treaty rejected on account of them, the record would then have fixed the responsibility upon the President.

When he placed the treaty before the Senate, however, the whole situation was changed. Then he knew that many Senators strongly opposed to the terms of the treaty on principle would be constrained, as we daily and hourly have witnessed from the lips of Senators that they are constrained, to accept it and concur in it, though they regarded it as a menace to our peace if not to the very existence of constitutional government.

Mr. President, there is so much in this treaty hostile to American interests and destructive of American ideals, so much of iniquity and spoliation that violates national honor and challenges American resentment, that Senators have directed their attacks solely upon these odious provisions of the treaty. In so doing I venture to say that they ignore that which is even more important than the treaty itself: They have permitted to pass unchallenged the illegal and unconstitutional manner in which the treaty was framed.

It has been almost a daily occurrence in this debate for one Senator after another to arraign and condemn important provisions of the treaty and then surrender his judgment with the concluding statement that he was constrained to vote to concur in it, to the end that we might as soon as possible conclude some sort of a treaty of peace.

A treaty so framed and concurred in does not represent the judgment of the Senate, in conformity with the Constitution.

It was to guard against such an event that the framers of the Constitution provided that the President should advise with the Senate in making all treaties. If this be not the plain meaning of the Constitution, then the words "by and with the advice" of the Senate have no meaning at all. After a treaty has been signed and sealed in secret without the advice of the Senate and is then presented for concurrence there is no longer anything to advise with the President about. The work is complete. The treaty has been framed. Presumably every article in it has already received his careful consideration and his approval, and his signature has been affixed to the document. The same thing, sir, is true of the representatives of some 30 other nations, signatories to the treaty, gathered from all parts of the world. When the treaty comes to the Senate it is true that the Senate still has the technical right to concur in it, even to reject it.

But that is only one-half of the constitutional duty of the Senate in making treaties. The provision of the Constitution that the treaty shall be made with the Senate's advice is just as mandatory as that it shall be concurred in by two-thirds of the Senators present before it can become effective.

Mr. President, let us look more closely at this construction of the provision of the Constitution.

What has the Senate really to do with making a treaty of peace?

Does the Constitution lodge in this body the express right to participate in the making of a treaty?

Has the Senate any duty to perform other than to "consent," or refuse to consent, to a treaty after it shall have been completed, signed, and submitted to this body by the President?

Article II, section 2, of the Constitution provides:

He—

The President—

shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur.

Note well the language of the Constitution.

The words "by and with the advice and consent of the Senate" immediately follow the words "he shall have power."

They limit, modify, and restrict the power of the President in the act of making a treaty the moment he begins to exercise that power.

The framers of the Constitution used words with accuracy and exactness.

The only meaning of the word "by" given in any standard authority which could aptly apply to the text is "through" or "according to." The use of "with," upon all authority, signifies association, conjunction, alliance, assistance, harmony. As Webster states it, "association in respect of accompaniment, conjunction, interaction"; "association by way of alliance"; "association by way of simultaneousness"; "association in respect of sphere of jurisdiction."

And what is the obvious meaning of the word "advice"?

It means "to counsel; to give an opinion recommended as worthy to be followed."

But when should "advice" and "counsel" be sought? When as to the making of a treaty should it be given?

Manifestly it should be given, if at all, when it would be most effective; while the scope and terms and covenants of the treaty are being formulated, while the minds of those directly engaged in making the instrument are most open to receive "advice" and "counsel" "worthy to be followed."

It is idle to say that the Constitution means that the President should advise with the Senate after the treaty has been put in final form, and has been duly signed by the accredited delegates to the peace conference.

That is not the meaning of the language of the Constitution. Its plain terms deny any such construction. If that were the meaning of the Constitution, then the words "by and with the advice and consent of the Senate" would have been left out altogether, and the section would have simply provided that the President shall have the power to make treaties, provided two-thirds of the Senators present concur. And, sir, if that were the language of the Constitution, if there had been eliminated the provision which, with much thought and consideration, as I shall show, was put in by the constitutional convention—"with the advice of the Senate"—if those words had been eliminated and it was simply provided that "the President shall have the power to make treaties with the concurrence of the Senate," even that language would have been sufficient to require a right-minded President, who desired to consult the country's welfare, and not merely his own arbitrary will, to confer with the Senate during the making of a treaty, lest the Senate, at the last moment, might withhold its consent from a treaty so momentous in the making of which it had no part.

But the framers of the Constitution wisely did not leave the matter there. It makes the "advice" of the Senate just as much a necessary part of the framing of the treaty as it makes the "consent" of the Senate necessary to its final execution.

But go a step further. What is it the President shall have power to do "by and with the advice and consent of the Senate"? Why, "he shall have power, by and with the advice and consent of the Senate, to make treaties."

"To make," according to all authority, is "to create," "to frame," "to construct."

What better word could have been chosen to express the purpose and intent of the framers of the Constitution?

It puts the "advice," the "counsel," of the Senate into every act of the President, after he shall have opened the negotiations, in making, framing, and constructing the treaty, from the beginning to the end, from its inception until its completion.

The President violates the strict and literal mandate of the Constitution, as well as its spirit, when he makes, frames, and constructs the treaty without advice and consultation with the Senate.

It is too late for the advice to be effective after the treaty is made and signed and passes out of his hands and into the possession of the Senate.

It is no answer to say that the Senate can then amend the treaty and refuse to concur in it unless the amendments are accepted.

True, they have that power, but the conditions then operate to deprive them of that freedom of judgment which the Constitution intended to confer upon them as an unconstrained aid in perfecting that instrument.

Why, Mr. President, we have daily, almost hourly, manifestations of that fact. It is perfectly apparent that there is a majority of Members of the Senate here who feel that they can not exercise their independent judgment on the provisions of this treaty as they would have been able to do if they had been advised with while the treaty was in the making, as was provided by the men who framed the Constitution.

Mr. HITCHCOCK. Mr. President—

Mr. LA FOLLETTE. If the Senator will pardon me, I prefer to go on with my argument, which is close-knit. I shall be glad to have the Senator make notes upon it and question me when I get through.

Mr. HITCHCOCK. I have not any desire to do so, because it is only at this point—

Mr. LA FOLLETTE. But just at this point the Senator can make his notes.

Mr. HITCHCOCK. The Senator declines to make them.

Mr. LA FOLLETTE. And then he can question me when I get through.

Mr. HITCHCOCK. Oh, no.

Mr. LA FOLLETTE. That is the orderly way of making an argument in court, or in any other place excepting in the Senate. The Senate debates have degenerated into quilting-bee conversations.

Mr. HITCHCOCK. Mr. President—

The PRESIDENT pro tempore. The Senator declines to yield.

Mr. LA FOLLETTE. No, Mr. President; I do not yield. I will proceed with this argument as I have prepared it, and the Senator can question me when I get through, and I shall be glad to answer him.

To amend the treaty at that stage—that is, after it reaches the Senate—and the Senator ought to be able to see that there should be no interruption at this point, from the context of what I am saying—to amend the treaty at that stage would subject the Senate to the charge of delaying and, it may be, altogether defeating the ratification of the treaty.

What is this curious atmosphere that surrounds the gentlemen who are known on this side of the Chamber as mild reservationists? It is an atmosphere that is impervious to argument. They fear to take the responsibility for the delay necessary to perfect it by amendment, and that is exactly what the Executive anticipated.

Of course, I can understand the psychology of the mild reservationists in this body. They reason that if amended this treaty must go back to the President. If his mind has become set and fixed as to its terms—and who doubts that it is somewhat set and somewhat fixed? [laughter]—he may deadlock the whole proceeding by refusing to transmit it with the proposed Senate amendments to the other high contracting parties. If he does transmit the treaty as amended by the Senate to the other governments concerned, it is at that late day certain to cause friction and delay, which may in the end result in the failure of the treaty. I take it, Mr. President, that that is what troubles so many of the Senators who do not like the terms of this treaty, who, if they could have been consulted as parties to the contract, as was provided by the framers of the Constitution, would quickly have voted to change certain provisions; but they are constrained by the circumstances which surround us at this hour. It seems to me that that is exactly what the President of the United States contemplated; that he contemplated that he was in a position to control and completely coerce the Senate of the United States and annul that provision of the Constitution.

The possibility of this outcome may well have the effect to coerce the Senate into accepting a treaty containing provisions of doubtful meaning or omissions of great importance to our Government, or into yielding and reluctantly concurring in a treaty some of the covenants of which may even contain the germs of national disaster.

Never before in the history of this Republic were we party to the making of any treaty of such far-reaching influence upon the destiny of this Nation, the freedom and happiness, the weal or woe of our own people, as that which was made at Paris, without the advice of the Senate, and which is now before us for concurrence.

Any President with a due regard for the awful responsibilities involved in this undertaking ought to have welcomed counsel and advice. Certainly he should have been the last to deny participation, at every step of the proceedings, as the terms and conditions were being wrought out line by line, to the United States Senate, which is specifically named in the Constitution as a part of the treaty-making power. And he should have been ready to accord, not a reluctant, narrow, technical compliance with the letter of that constitutional provision, but he should have extended a cordial and prompt hospitality to all advice and counsel from the Senate within the broadest conception of the spirit of the Constitution.

What would be said of a President who, while in France conducting the negotiations for this treaty, deliberately refused, if the Senate had been in session, to receive communications and advice from the Senate concerning those negotiations?

Could there be any doubt in anyone's mind that there would be but one answer to make to such an abuse of power by the Executive? Yet how would this conduct differ in effect from that by which the Executive just as effectively stopped his ears and closed his mind to the advice of the Senate by refusing to convene that body in session while this treaty was in the making?

I turn aside for a moment, Mr. President, to consider the evolution of the President.

Prior to his becoming a candidate for governor of New Jersey, Woodrow Wilson was known among those who were at all familiar with anything he had written as a pronounced reactionary. However, a short time before he essayed to enter politics he announced a radical change in views and became a very ardent advocate of liberal, progressive democracy.

But President Wilson in 1919 is no longer the "forward-looking" progressive he appeared to be as governor of New Jersey and in his first years as President. That interesting period seems to have been mainly a rhetorical exhibition, in which the highest achievements are recorded in *The New Freedom* and his essays on "Making the world safe for democracy."

As he has progressed backward in these later years he presents what might be called a typical case of atavistic reversion.

For example, as to the treaty-making power, President Wilson now reverts to the uniquely autocratic views of Woodrow Wilson of 1908. His opinions upon these powers, as set forth in 1908, have no counterpart—in so far as I am advised—in all the literature on that important provision of the Constitution.

He is the first of all of our Presidents openly to challenge the constitutional right and duty of the Senate to advise and counsel with the President in the making of a treaty. Nay, more than that, he asserts that the President has the autocratic power to coerce the Senate into concurring in a treaty to which it may even be opposed.

From his book, *Constitutional Government in the United States*, first published in 1908 and reprinted as late as December, 1917, I quote the following:

One of the greatest of the President's powers I have not yet spoken of at all: His control, which is very absolute, of the foreign relations of the Nation. The initiative in foreign affairs, which the President possesses without any restriction whatever, is virtually the power to control them absolutely.

Now, we begin to get a picture of the inside of this man's mind, away back in 1908.

The President can not conclude a treaty with a foreign power without the consent of the Senate, but he may guide every step of diplomacy, and to guide diplomacy is to determine what treaties must be made, if the faith and prestige of the Government are to be maintained.

That is, he can put the Government in such a place that its honor is committed to the carrying out of that provision that would not otherwise be carried out.

Mr. McCORMICK rose.

Mr. LA FOLLETTE. Just let me conclude the quotation. He says further:

He need disclose no step of negotiation until it is complete, and when in any critical matter it is completed the Government is virtually committed. Whatever its disinclination, the Senate may feel itself committed also.

He thinks he has it committed, and he has evidently some gentlemen on this side committed.

This statement was of little importance at the time it first appeared in a small edition of classroom lectures to his college students. Its author, Mr. Wilson, was a gentleman who had failed as a lawyer and had become a college professor of "jurisprudence and politics." His views upon this subject at that time—1908—would not specially have interested anyone except for the fact that artful circumventing standards of political ethics which this quotation evidences were being taught to college students.

Mr. McCORMICK. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from Illinois?

Mr. LA FOLLETTE. I yield.

Mr. McCORMICK. Perhaps the same view of the powers of the President to commit the country has become current in Europe through some medium, because Stephane Lausanne, of the *Paris Matin*, returning from Brussels, announced the course which France would pursue "if America did not keep her word," the implication being that some power unknown to the Constitution had pledged the word of America in Paris.

Mr. LA FOLLETTE. Exactly. Now, to take up the thread of my thought.

It is quite another matter now. By the accidents of political fortune Mr. Wilson, the author of the foregoing paragraph, is

now President Wilson. Curious things happen in this Government of ours.

He chose to constitute himself a direct participant in making the treaty of Versailles. It transcends infinitely in importance any other to which this Nation was ever a party.

And President Wilson properly having taken the initiative in opening communications with the representatives of other nations, and thus being in control of the situation up to that point, by the Machiavelian method suggested by Woodrow Wilson in 1908, usurped sole and exclusive power, as he says, to—

Guide every step of diplomacy—

As to himself decide and—

Determine what treaties must be made, if the faith and prestige of the Government are to be maintained.

But he goes further than that. This is not enough to satisfy the peculiar sinuous working of that mind. He carried it to the monstrous conclusion that the President, and I quote his words, "need disclose no step of negotiation until it is complete, and when in any critical matter it is completed the Government is virtually committed. Whatever its disinclination, the Senate may feel itself committed also." And I take it that a considerable number of Senators on this side feel themselves so pushed into a corner that they are in a way committed also to this unconstitutional method of making treaties.

In so doing, President Wilson manifested a willful, stubborn disregard of his constitutional obligations and the honorable precedents of other Presidents.

It is an accepted canon of construction that the meaning of any law is to be found in its own language. As an aid to the determination of an ambiguous statute, resort may be had to the discussion of the legislative debates and to legislative journals. The treaty-making power of the Constitution is not involved in any ambiguity. However, it may be of interest in this connection to notice briefly the historic setting of this provision. It will aid to a clear understanding of the intention of the framers of the Constitution to start with the thought in mind that the making of a treaty is the exercise of a sovereign power.

When the Colonies achieved independence, the right of sovereignty, carrying with it the treaty-making power, became inherent in each of the thirteen States. In forming the Continental Congress, the State was made the voting unit, and the treaty-making power was exercised through the State acting in its sovereign right.

Under the Articles of Confederation each State retained its sovereignty and had one vote. Provision was made in the articles that no one State should enter into a treaty with any king, prince, or foreign State without the consent of Congress. The Congress was given the authority to enter into treaties. But so jealous were the States of their sovereign treaty-making power that it was provided in the articles that no treaty could be made excepting by and with the vote of nine States. I emphasize this because it bears upon the Senate's power in making treaties. This conception of the close association with the power of making treaties and sovereignty in each of the States becomes a material consideration in construing and in tracing the historical development of this matter in the Constitutional Convention. Hence when the Constitutional Convention met to form a more perfect Union on the 25th of May, 1787, the delegates there assembled were imbued with the idea that the treaty-making power was inherent in the sovereignty of the States. It was so agreed that each State should be represented in the United States Senate.

Therefore it logically followed, when it came to dealing with the delegation of the treaty-making power to the new government that they were about to form, that they should lodge that great power exclusively in the United States Senate, and that is what they did. In the first construction of our Constitution you can see how their minds were working. You only need to trace the history of this provision to get the psychology of the men who were making our Constitution.

So we find in the first draft of the Constitution presented to the convention by Mr. Pinckney on the 29th of May, that it contains the provision with respect to treaties which I shall read. Just listen to it, Senators, and see what a monstrous change has been imposed upon this Republic from that conceived by the men who formed it:

ART. 7. The Senate shall have the sole and exclusive power to declare war and to make treaties.

That is the first draft of our Constitution. It is a far cry from that provision, Mr. President and Senators, to having treaty making controlled by one mind. Thus it will be seen that in the first draft of the Constitution the President was not even mentioned in connection with the power of making treaties.

This draft of the Constitution, presented by Mr. Pinckney, was presented on the 29th of May. As I remember it, the convention assembled on the 14th of May. There was but a meager attendance at that time, and because of the meager attendance of delegates an adjournment was taken to, I think, the 25th of May; and on the 25th of May the delegates assembled in such numbers that they organized the Constitutional Convention, and Gen. George Washington was elected its president and William Jackson, as I now remember it, was elected its secretary.

So it was organized for business about the 25th of May, and on the 28th or 29th of May Charles C. Pinckney presented to that Constitutional Convention a working draft of a constitution for this Government of ours.

Impressed by the fact that with the power of making treaties goes hand in hand sovereignty, that each of the thirteen Colonies had the power of making treaties because of their independent sovereignty, when they organized into the Confederation that provision was recognized, and the vote by States was carried over into the provisions of the Articles of Confederation and expressed there and perfected. So if each of the States was to be represented in the legislative body here and have equal voting powers, known as the United States Senate in the new government that they were about to form, it was perfectly logical and perfectly natural in the working of the mind of Charles C. Pinckney that in the first draft he submitted he should have incorporated the provision that treaties should be made by the States represented in the United States Senate on an equal voting basis.

Mr. President, as I have studied the proceedings of that convention, I find that on June 18, a little less than a month after the Constitutional Convention convened, Alexander Hamilton made an address before the convention, and in that address he submitted, in a tentative way, some suggestions—as he says, mere suggestions—for the consideration of the committee that was working upon the building up of the constitutional provisions. Among the suggestions that he made I find this one, and it is the first time that in the Constitutional Convention the President appears to have been thought of by anybody in connection with the treaty-making power. I think that is rather interesting.

I quote the following:

The authorities and functions of the Executive to be as follows:

I omit enumerating other functions and come to the one in question:

To have, with the advice and approbation of the Senate, the power of making all treaties.

But, sir, I am unable to find from that time on that he had so impressed any delegates in the Constitutional Convention that the matter was taken up and advocated by any one member of the convention. They still adhered to the plan that treaties should be made by the United States Senate, because the United States Senate represented the States on an equal voting basis.

Then a committee on detail—that is, a committee to work out the details of the Constitution—was appointed. It presented its report on August 6. It reported as to treaties the following:

Article IX, section 1. The Senate of the United States shall have power to make treaties.

I find the next reference August 15. Mr. Mercer, a delegate who was a factor in that convention, made the suggestion that the treaty-making power ought to be lodged solely with the Executive. There was not any discussion upon his suggestion, as revealed by the notes. Mark you, it was on the 15th day of August that he made that suggestion.

On September 4 Mr. Brierly, of the committee of 11, the committee on detail, reported to the convention several propositions, among which was the one dealing with this question of making treaties, and I have it before me. That was on the 4th day of September, 13 days and only 13 days before the Constitutional Convention adjourned. Then for the first time the President was brought into the report of the committee which was preparing the draft of the Constitution for the final action of the convention in substantially the same form in which we have it now.

Mr. President, I think the history of that is of some significance. I think it shows that it was clearly the purpose of the framers of the Constitution to withhold from the President any participation in the making of treaties until it was suggested that the Senate, being a legislative body, would require some agency for communicating with foreign nations in the making of a treaty and that the Executive was a proper agency.

That suggestion was made by Madison. It was adopted, and the Executive was brought into the treaty-making power.

The men who were looking to the perpetuity of democracy for the light of the world never rested it upon one mind. You can not find it in the Constitution.

I tell you, Senators, never in all of your service in this body—I care not how long you have served—have you been brought to or which now faces us. Will you yield in this matter and write into the history of the proceedings of this Government a precedent that surrenders all control of our intercourse with the foreign Governments of the world practically to one mind? It was clearly the purpose of the framers of the Constitution to withhold from the President the exclusive authority to make treaties. Indeed, it was at a late hour in the proceedings of the convention that they admitted the Executive to a participation in it. They regarded it as too vast a power, fraught with too serious consequences, to be committed to the sole discretion of one man. A badly conceived and unwisely constructed treaty might prove a costly venture. It might involve the country in the gravest difficulties, the most embarrassing entanglements. It might even convert a covenant designed to secure peace into an instrument to force us into war. To safeguard against the dangers incident to the mistakes and errors of a one-man judgment and the menace of an overreaching ambition, the framers of the Constitution vested the treaty-making power in the President and the Senate.

Now, Mr. President, after this somewhat too extended excursion into the historical aspects of this, to me, very interesting matter, let us come back to a consideration of this provision of the Constitution. I have already quoted it unnecessarily, for it is familiar to every Senator, but it seems to me that this provision ought to be given some meaning.

Chief Justice Marshall, in *Gibbons versus Ogden*, said:

As men whose intentions require no concealment generally employ words which most directly and aptly express the ideas they intend to convey, the enlightened patriots who framed our Constitution and the people who adopted it must be understood to have employed words in their natural sense and to have intended what they said.

When, therefore, the Constitution commands that the President and the Senate shall advise together in making a treaty, it was clearly intended that each side should be free to receive or to reject the advice of the other; but, as I have said, when this treaty was presented to the Senate for its consideration, it was no longer possible for the President to accept and to conform to the advice of the Senate if the advice involved changing any of the terms of the treaty. The time for advice was when the treaty was being negotiated and debated at the conference table and was still subject to change by the representatives of the 31 Governments parties to the agreement; but that time had passed when the treaty was first brought before the Senate; and it had been, I believe, the deliberate purpose of the President to deprive the Senate, in so far as he could, of all influence in making the treaty.

In *Gerrald versus Mobley*, in *Thirteenth Otto*, page 580, Justice Field said:

A constitutional provision should not be so construed as to defeat its evident purpose, but rather so as to give it effective operation and suppress the mischief at which it is aimed.

Now, what was the mischief at which this constitutional provision was aimed which required the President and the Senate to advise together in making a treaty? It was aimed at the mischief of too great power in making treaties being exercised by one man.

Alexander Hamilton, fresh from active participation in the Constitutional Convention, addressing the people of New York pending their ratification of the Constitution, emphasized the importance of the Senate's "joint and concurrent participation in making treaties." Those are his words. What does that mean?

Speaking of the danger of lodging with one man, the President of the United States, the exclusive authority to make treaties and control foreign relations, he said:

However proper and safe it may be, in governments where the executive magistrate is an hereditary monarch, to commit to him the entire power of making treaties, it would be utterly unsafe and improper to intrust that power to an elective magistrate of four years' duration.

Again, he says:

The history of human conduct does not warrant that exalted opinion of human virtue, which would make it wise in a nation to commit interests of so delicate and momentous a kind, as those which concern its intercourse with the rest of the world, to the sole disposal of a magistrate, created and circumstanced as would be a President of the United States.

Mr. President, I grant that the Senate still has the power to reject this treaty; it still has the power to amend it; but I say to Senators here that every man within the reach of my voice knows that Senators have been under constraint in voting as to changing this treaty. It never was intended by the

makers of the Constitution that they should be under constraint, but we can not get the independent judgment of Senators as to the language of the treaty, although upon the language of the treaty may hang the lives of millions of our soldier boys.

Mr. JONES of Washington. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Wisconsin yield to the Senator from Washington?

Mr. LA FOLLETTE. I will yield in a moment. It never was intended, I say, that the coordinate treaty-making power—the Senate—should by the Machiavelian tactics of an Executive be placed in a position where it could not exercise its independent judgment in framing treaties. Now I yield to the Senator from Washington.

Mr. JONES of Washington. Mr. President, I have no doubt the Senator has noted in the newspapers nearly every day, and I think in those of this morning, statements to the effect that Senators are waiting the orders of the President before they determine how they are going to vote, if certain reservations are put on.

Mr. LA FOLLETTE. Oh, Mr. President, I have noted that. I have noted it, as I have noted other things that have transpired under this administration. Oh, never before in the history of this Republic has there been known anything, faintly or remotely, approaching the servile, abject, cringing attitude of the legislative department of the Government to the Executive; and I am taking the time of the Senate to protest and to seek to arouse some unity of action here which will assert and will preserve, sir, to us and to our children the letter and spirit of the Constitution that cost us so much in blood and treasure. Senators, in God's name what justification can be made for this surrender of the Senate's constitutional right when the Constitution imposes upon you your independent duty under your oath to support the Constitution?

Too many Senators have voted down amendments which in their hearts and in their consciences they believed to be just and knew were right and knew ought to be written into this treaty, but because the treaty has come to the Senate in this form and through violation of the letter and spirit of the Constitution.

Listen to Hamilton further. Fortunately we have the voice and the thinking of these men here, preserved in the printed page occasionally to make its appeal. Will you not heed that? Listen to Hamilton.

Also, in the same address, he said that if we would attend carefully to the subject—

It—

The treaty-making power—

will be found to partake more of the legislative than of the executive character.

And in the same address he spoke of the danger involved in giving—listen—an ambitious President too great treaty-making power. He said:

An ambitious man might make his own aggrandizement, by the aid of a foreign power, the price of his treachery to his constituents.

Mr. McCORMICK. Will the Senator repeat that, please?

Mr. LA FOLLETTE. Gladly. Listen again to this admonition from Hamilton:

An ambitious man might make his own aggrandizement, by the aid of a foreign power, the price of his treachery to his constituents.

Since the mischief at which the constitutional provision was aimed, which gave to the Senate coordinate power with the Executive in making treaties, was plain and well understood, and the language of the Constitution directly and aptly confers this power upon the Senate, I might at this point rest my argument to show that the President proceeded in violation of the Constitution in making this treaty.

But I am going further than that and call to the attention of the Senate the precedents upon this subject established by Presidents whose learning, devotion to duty, and loyalty to the institutions of our country can not be questioned.

President Washington's administration, following immediately upon the adoption of the Constitution, and numbering among its members many of those who had been prominent in framing the Constitution, furnishes the most persuasive proof as to what the men of that time understood the Constitution to require of the President in the exercise of his treaty-making power.

The first treaty ever negotiated by our Government, so far as I have learned, was with the southern Indians early in President Washington's first administration. The method of procedure in that case, though involving nothing more than a treaty with an Indian tribe, was such as to carry out the letter and the spirit of the Constitution. President Washington first sent a message to the Senate in which he advised the Senate that he wished to meet with it the following day "to consider the terms

of a treaty to be negotiated with the southern Indians." This message was sent to the Senate August 21, 1789. President Washington accordingly the next day came to the Senate, accompanied by Gen. Knox, a soldier who was prepared to answer questions pertaining to the Indians, though he was not otherwise an officer of the Government, and the President briefly stated the purpose of the meeting. Seven specific questions were submitted to the Senate as to the "proposed negotiations." The President requested a vote by the Senate upon each of the seven propositions. The Senate took the questions under advisement and postponed action until the following Monday, at which time it voted in favor of only a part of the seven propositions stated.

Some two or three weeks before President Washington asked the advice of the Senate concerning the negotiation of the treaty I have just mentioned, the Senate had already appointed a committee to determine the manner in which communications respecting treaties should be conducted between the President and the Senate. President Washington communicated his views to this committee, stating, in substance, that "in case of treaties oral communications seem to be indispensably necessary, because of the variety of subjects embraced in them which would not only require consideration but might undergo much discussion." (See Crandall on Treaties, 2d ed., p. 67.)

That indicates how the Senate and President Washington viewed this question. Oh, how far have we traveled, and in what an untoward direction! Where are we going? Is this to be a Republic, or is this to be a Government controlled by one man? You must answer to your consciences and to your constituents on this issue, for it is not to be settled here to-day or to-morrow or with the disposition of this treaty. This question goes to the very foundations of the life of this Republic, and there are, thank God, in this country men loyal enough to our free institutions to carry this question from this Hall to the American people, the sovereign power of this Republic, for final determination.

So far as I have been able to find, President Washington throughout his two terms of office never failed to ask the advice of the Senate respecting the negotiation of all treaties which were made while he was President.

We know that on August 4, 7, and 11, 1790, and January 18, 1792, and March 23, 1792, the President asked the advice of the Senate as to negotiating various treaties with the Indian tribes.

In a message to the Senate on August 4, 1790, respecting the proposed treaty with the Creek Indians, the President said:

In consequence of the general principles agreed to by the Senate in August, 1789, the adjustment of the terms of a treaty is far advanced between the United States and the chiefs of the Creek Indians, now in this city, in behalf of themselves and the whole Creek Nation.

You will note here that a year prior to the date of this communication the President had advised with the Senate and secured from it an opinion as to the general principles which should be embodied in the treaty. Following out those principles, it seems that a year's negotiations were in progress. It further appears from this communication from the President to the Senate, under date of August 4, that the President was embarrassed in his dealings with the Creek Indians, because British merchants importing their goods, through Spanish ports, had a monopoly of the trade with the Creeks, and brought about disorder and discontent among the Indians. The President therefore submitted to the Senate whether a secret treaty might be negotiated with the Indian chiefs to obviate this difficulty.

On August 11, 1790, the President, in a message to the Senate in reference to a proposed treaty with the Cherokee Indians, said:

On this point, therefore, I state the following precedents, and request the advice of the Senate thereon:

First. Is it the judgment of the Senate that overtures shall be made to Cherokees to arrange a new boundary so as to embrace the settlements made by the white people since the treaty of Hopewell, in November, 1785?

President Washington thought that in fixing this boundary, this little boundary, a mere short span upon the map, that the Senate ought to be consulted and advised with before he put it into the fixed terms of a treaty to be submitted for them to concur in. But he who is now President has joined in a treaty that changes the boundaries of the world, and he has done that without a suggestion from the United States Senate, or an intimation of any desire to have their advice, and has done it in such a way, as indicated by the attitude of many Senators, that he can not secure the independent opinion of those Senators in deciding as to whether he pursued a proper course.

Second. If so, shall compensation to the amount of ——— dollars annually or of ——— dollars in gross be made to the Cherokees for the land they shall relinquish, holding the occupiers of the land accountable to the United States for its value?

Third. Shall the United States stipulate solemnly to guarantee the new boundary which may be arranged?

Those were the questions that he submitted to the Senate to be advised upon by the Senate in pursuance of what he thought to be the requirements of the Constitution in treaty making.

On January 18, 1792, President Washington addressed the Senate as follows:

I lay before you the communications of a deputation from the Cherokee Nation of Indians now in this city, and I request your advice whether an additional article shall be made to the Cherokee treaty to the following effect, to wit:

That the sum to be paid annually by the United States to the Cherokee Nation of Indians in consideration of the relinquishment of lands as stated in the treaty made by them on the 2d day of July, 1791, shall be \$1,500 instead of \$1,000 mentioned in the said treaty.

You will note here how trivial was the amount involved, how simple the negotiations; and yet, sir, because of the principle involved, and because he wished to obey the Constitution, President Washington did not proceed to negotiate even the simple treaty here proposed and the determination of the amount—between \$1,500 and \$1,000—without first requesting the advice of the Senate upon the subject.

November 6, 1919.

Mr. LA FOLLETTE. Mr. President, at the conclusion of the session on yesterday one of the Senators upon the other side of the Chamber paid me the compliment of saying that he had been much impressed with my argument that it was the duty of the President, under the Constitution, to advise with the Senate in making a treaty; but he suggested that, with the peace commission sitting in Paris, remote from this country, it would be very difficult for the President to advise with the Senate. I reminded him, and I remind the Senate, that the President, when he withdrew himself from this country at the beginning of the December session of Congress in 1918, in an address to the two Houses, said:

The cables and the wireless will render me available for any counsel or service you may desire of me, and I shall be happy in the thought that I am constantly in touch with the weighty matter of domestic policy with which we shall have to deal.

It seems to me, Mr. President, that, being in full control of the cables and the wireless, he might have added that it would be possible for him to comply literally and according to its spirit with the provision of the Constitution as to advising with the Senate at every step in making a treaty dealing with the momentous affairs that were being considered by the peace conference at Paris.

Now, Mr. President, I resume where I broke off at the adjournment or the recess taken last evening, when I was presenting to the Senate the conception of President Washington of his obligations, as President, to advise with the Senate in the making of treaties, as shown by the records of his administration. I had completed the recital with respect to one case in which he had advised with the Senate while a treaty was in the making; and again, in addressing the Senate of the United States May 8, 1792, President Washington submitted the following propositions for the advice of the Senate. I quote:

If the President of the United States should conclude a convention or treaty with the Government of Algiers for the ransom of the 13 Americans in captivity there for a sum of not exceeding \$40,000, all expenses included, will the Senate approve the same? Or is there any, and what, greater or lesser sum which they would fix on as the limit beyond which they would not approve the ransom?

Continuing the quotation:

If the President of the United States should conclude a treaty with the Government of Algiers for the establishment of peace with them at any expense not exceeding \$25,000, paid at the signature, and a like sum to be paid annually afterwards during the continuance of the treaty, would the Senate approve the same? Or are there any greater or lesser sums which they would fix on as the limits beyond which they would not approve of such treaty?

Of course, in all the more important treaties President Washington was equally punctilious in seeking the advice of the Senate, or in associating the Senate with the President in framing the treaty through an agent agreed upon between the President and the Senate. Whenever that course seemed to be the most practical one the Senate was represented in the making of the treaty as much as the President, when they jointly agreed upon the selection of an agent or of agents who should make the treaty.

For example, February 9, 1790, he addressed the Senate as follows:

You will perceive from the papers herewith delivered, and which are enumerated in the annexed list, that a difference subsists between Great Britain and the United States relative to the boundary line between our eastern and their territories. A plan for deciding this difference was laid before the late Congress, and whether that or some other plan of a like kind would not now be eligible is submitted to your consideration.

In my opinion it is desirable that all questions between this and other nations be speedily and amicably settled, and in this instance I think it advisable to postpone any negotiations on the subject until

I shall be informed of the result of your deliberations and receive your advice as to the propositions most proper to be offered on the part of the United States.

As I am taking measures for learning the intentions of Great Britain respecting the further detention of our posts, etc., I am the more solicitous that the business now submitted to you may be prepared for negotiation as soon as the other important affairs which engage your attention will permit.

Think of it, sir! President Washington thought it advisable to postpone even opening negotiations until the Senate had deliberated upon the matter and advised him—to quote his own words—"as to the propositions most proper to be offered on the part of the United States"; and because of the great importance and urgency of the question, the President exhorted the Senate that it act as promptly as the other important affairs which engaged its attention would permit, to the end that he might be advised upon the questions submitted to the Senate and the matter—to quote his words—"be prepared for negotiation."

If, sir, it is allowed the spirit of Washington to know the evils that afflict his unhappy country to-day, his thoughts must have been aroused by the spectacle of President Wilson betaking himself to the capitals of Europe, there to negotiate in secret, with the representatives of the Kings of Great Britain and Italy, the Emperor of Japan, and other potentates, a treaty more far-reaching in its consequences to this country than ever before was contemplated by the mind of man; and in all this proceeding the President addressed no communication to the Senate, and not only never sought its advice, but deliberately destroyed all possibility of the Senate advising with the President by refusing to convene it in special session while the peace conference was doing its most important work.

The criticism of the league of nations by Senators during the session which terminated March 4 did constrain the President grudgingly to consent to inviting a few Senators to the White House on his return from abroad February 25, and thus grant to them the special privilege of a brief exchange of views on that branch of the work of the peace conference. The Senators wanted to know the meaning of this provision and that provision. Answers in hazy generalities did not seem to satisfy their desire for information. Questions were delicately pressed by the members of the Committee on Foreign Relations, invited to the President's private dinner. The President did not particularly enjoy the occasion. He wasted no more of his time upon the "pygmy minds" of Senators who declined to permit him to do their thinking for them; and manifestly he welcomed the approach of the 4th of March, which automatically adjourned Congress and put a stop to further discussion of the proceedings of the peace conference in the daily sessions of the Senate.

Who, think you, best knew the meaning of the Constitution, George Washington or Woodrow Wilson? Whose interpretation will you accept? That of the great soldier and statesman who presided over the convention that framed the Constitution, and was unanimously elected the first President of the United States, or the schoolmaster who read the Constitution only as 10,000 other professors read it, for classroom purposes, and who by the accident of politics was elected President of the United States?

Sir, not only did President Washington, in his solicitude to obey the Constitution, seek the advice of the Senate in advance upon the principles to be embodied in every treaty made during his administration, but when he found it necessary to appoint some one to conduct the negotiations for him he submitted the names of such persons to the Senate, with his reasons for their selection, and sought the approval of the Senate upon the appointment.

Accordingly, he addressed the Senate on January 11, 1792, respecting the proposed treaty with Spain. After setting out the fact that the representatives of the King of Spain had approached our Government with suggestions that a treaty be made respecting the navigation of the Mississippi River, President Washington said:

In consequence of the communication from the Court of Spain, as stated in the preceding report, I nominate William Carmichael, present chargé d'affaires of the United States at Madrid, and William Short, present chargé d'affaires of the United States at Paris, to be commissioners plenipotentiary for negotiating and concluding with any person or persons who shall be duly authorized by His Catholic Majesty a convention or treaty concerning the navigation of the River Mississippi by the citizens of the United States, saving to the President and Senate their respective rights as to the ratification of the same.

It evidently never occurred to President Washington that the way to make that treaty was to take his family and Col. House, besides some thirteen hundred other friends and associates, and go over to the Court of Spain, and make the treaty all by himself in secret, never communicating with the Senate until the treaty was a completed document, and then merely calling it to

the attention of the Senate by pointing out the place where the vote of concurrence of the Senate could be attached.

The several communications addressed by President Washington to the Senate, from which I have quoted, and the many others of the same nature, are to be found, of course, in the published Messages and Papers of the Presidents under the dates I have mentioned.

President Washington not only knew and recognized the constitutional right and duty of the Senate to advise with the President in making treaties, but he also realized the full extent and great responsibility and the limitations imposed upon the treaty-making power vested by the Constitution in the Executive, and he never hesitated to execute that power to the full limit of his constitutional right and duty. No man ever called President Washington a weakling or a man who was afraid to assume responsibility or disposed to surrender the rights and prerogatives of the presidential office. Accordingly we find that when the House of Representatives, in March, 1796, adopted a resolution requesting the President to send to it a copy of the instructions to the minister to negotiate a treaty with the Government of Great Britain, claiming that the carrying out of the treaty would require legislation of the House, President Washington courteously but firmly declined to comply with the request, on the ground that no such duty was enjoined upon him by the Constitution.

In his message to the House of Representatives, Washington pointed out that the House of Representatives was a large body and that the danger of communications of a confidential nature becoming public was much greater than in the case of the Senate, and that this was one reason which moved the convention which framed the Constitution to vest the treaty-making power in the President and the Senate. On this point he said:

The necessity of such caution and secrecy was one cogent reason for vesting the power of making treaties in the President, with the advice and consent of the Senate, the principle upon which that body was formed confining it to a small number of Senators. To admit, then, a right in the House of Representatives to demand and to have as a matter of course all the papers respecting a negotiation with a foreign power would be to establish a dangerous precedent.

President Washington knew the danger of a bad precedent, and so he adhered firmly to the Constitution, every line of which had been written under his eye, and every sentence of which had been most ably debated in his presence, neither seeking, on the one hand, an undue extension of the President's treaty-making power nor, on the other hand, allowing that power to be in the slightest degree limited or impaired.

I can not, of course, Mr. President, take the time of the Senate to go over all the many instances in which other Presidents, in conformity with the Constitution, have sought the advice of the Senate to or during the negotiations of a treaty, or have joined with the Senate in the selection of an agent or commission to make the treaty. I have dwelt at some length upon the practice followed by Washington because his position in the Constitutional Convention puts it beyond question that he knew the meaning of the framers of the Constitution—the meaning that they gave to the clause I am discussing.

The practice of all the early Presidents, particularly those who had some part in the framing of the Constitution, was the same. They sought the advice of the Senate concerning any proposed treaty at some point prior to the time the treaty was submitted for final action. While I am aware that subsequently this practice was departed from, it is also true that it has been generally followed in exceptional cases when necessary to enable the Senate to advise the President in the constitutional sense.

Passing rapidly over the different administrations, I note that President Adams's practice was exactly the same as Washington's. Let one instance suffice.

In negotiating a treaty with the French Republic, the President laid before the Senate a general statement of the ground covered, and submitted to the Senate for confirmation the names of the agents he desired to select to conduct the negotiations. Addressing the Senate under date of May 31, 1797, he said:

I nominate Gen. Charles Cotesworth Pinckney, of South Carolina; Francis Dana, chief justice of the State of Massachusetts; and Gen. John Marshall, of Virginia, to be jointly and severally envoys extraordinary and ministers plenipotentiary to the French Republic.

After mature deliberation on the critical situation of our relations with France, which have long engaged my most serious attention, I have determined on these nominations of persons to negotiate with the French Republic to dissipate umbrages, to remove prejudices, to rectify errors, and adjust all differences by a treaty between the two powers.

It is, in the present critical and singular circumstances, of great importance to engage the confidence of the great portions of the Union in the characters employed and the measures which may be adopted. I have therefore thought it expedient to nominate persons of talents and integrity, long known in the three great divisions of the Union, and at the same time to provide against the cases of death, absence, indisposition, or other impediments to invest any one or more of them with full powers.

So much for President Adams.

President Jefferson, it is well known, maintained, and while Secretary of State advised the President, that the Senate should be consulted before the opening of negotiations respecting a treaty, since it was for that body to finally concur in the treaty. I cite the writings of Jefferson, Ford Edition, fifth volume, page 442.

If the requirements of secret diplomacy which were so much affected by statesmen throughout the world in the nineteenth century sometimes led our Presidents to conduct treaty negotiations with too little regard for the letter and spirit of the Constitution, that was merely the occasion for the really great Presidents to respect the principles of the Constitution, and return to the practice of Washington and his immediate successors.

Accordingly we find that President Jackson, under date of May 6, 1830, sought the advice of the Senate concerning a proposed treaty with the Choctaw Indians, by which they offered to cede to the United States all their country east of the Mississippi River. Among other things, he said:

It is certainly desirable, on various and very pressing accounts, as will appear from the accompanying documents, that some agreement should be concluded with the Indians by which an object so important as their removal beyond the territorial limits of the States may be effected.

In settling the terms of such an agreement, I am disposed to exercise the utmost liberality, and to concur in any which are consistent with the Constitution and not incompatible with the interests of the United States and their duties to the Indians. I can not, however, regard the terms proposed by the Choctaws to be in all respects of this character; but, desirous of concluding an agreement upon such as are, I have drawn up the accompanying amendments, which I propose to offer to the Choctaws if they meet the approbation of the Senate. The conditions which they offer are such as, in my judgment, the most likely to be acceptable to both parties, and are liable to the fewest objections. Not being tenacious, though, on the subject, I will most cheerfully adopt any modifications which on a frank interchange of opinions my constitutional advisers may suggest, and which I shall be satisfied are reconcilable with my official duties.

With these views I ask the opinion of the Senate upon the following questions:

Will the Senate advise the conclusion of a treaty with the Choctaw Nation according to the terms which they propose? Or will the Senate advise the conclusion of a treaty with that tribe as modified by the alterations suggested by me?

If not, what further alteration or modification will the Senate propose?

Lincoln, too, in negotiating treaties, conformed strictly to the Constitution and followed the practice of early Presidents. One of Lincoln's first acts was to ask the advice of the Senate on a proposition submitted by the British Government to refer certain matters in controversy between the two countries to arbitration. In his communication, under date of March 16, 1861, President Lincoln said:

The Senate has transmitted to me a copy of the message sent by my predecessor to that body on the 21st day of February last, proposing to take its advice on the subject of a proposition made by the British Government through its minister here, to refer the matter in controversy between that Government and the Government of the United States to the arbitration of the King of Sweden and Norway, the King of the Netherlands, or the Republic of the Swiss Confederation.

In that message my predecessor stated that he wished to submit to the Senate the precise questions following, namely:

Will the Senate approve a treaty referring to either of the foreign powers above named the dispute now existing between the Governments of the United States and Great Britain concerning the boundary line between Vancouver Island and the American Continent? In case the referee shall find himself unable to decide where the line is by the description of it in the treaty of the 15th June, 1846, shall he be authorized to establish a line according to the treaty as nearly as possible? Which of the three powers named by Great Britain as an arbitrator shall be chosen by the United States?

I find no reason to disapprove of the course of my predecessor in this important matter; but, on the contrary, I not only shall receive the advice of the Senate therein cheerfully, but I respectfully ask the Senate for their advice on the three questions before recited.

The predecessor of Mr. Lincoln referred to in his message was, of course, Mr. Buchanan. His views on the subject had been stated while Secretary of State, in 1846, in instructions given to Mr. McLean, Minister to Great Britain. He there said, and I quote from President Buchanan now:

The Federal Constitution has made the Senate to a certain extent a coordinate branch of the treaty-making power. Without their advice and consent no treaty can be concluded. This power could not be intrusted to wiser or better hands. Besides, in their legislative character they constitute a portion of the war-making as in their executive capacity they compose a part of the treaty-making power. * * * A rejection of the British ultimatum might probably lead to war, and as a branch of the legislative power it would be incumbent upon them to authorize the necessary preparations to render this war successful. Under these considerations the President, in deference to the Senate—

Listen, now, to this—

and to the true theory of the constitutional responsibilities of the different branches of the Government, will forego his own opinion so far as to submit to that body any proposition which may be made by the British Government not, in his judgment, wholly inconsistent with the rights and honor of the country.

President Buchanan also during his administration followed this practice, and on February 21, 1861, sought the advice of the

Senate in advance of negotiations for a treaty to refer to arbitration the northwest boundary dispute.

Resuming for a moment reference to Lincoln's administration and to the practices which he followed, on July 19 President Lincoln submitted to the Senate for its advice, with a view to formal ratification, the draft of a treaty formally agreed upon between the United States and the Delaware Tribe of Indians relative to certain lands of the tribe.

On December 17, 1861, President Lincoln transmitted to the Senate for advice a copy of a draft for a convention with the Republic of Mexico, by Mr. Corwin, then minister to that Government. He urged the immediate consideration by the Senate, because of the momentous interests of the two Governments at this juncture.

On January 24, 1862, President Lincoln sent a message to the Senate laying before it a dispatch just then received from Minister Corwin. It contained important information concerning the war then being waged against Mexico by Spain, France, and Great Britain. The President asked that the Senate give early consideration to the request which he had previously submitted to the Senate, to the end that he might cause instructions to be sent to Mr. Corwin, such instructions as would enable him to act in a manner which, while it would most carefully guard the interests of our country, would at the same time be most beneficial to Mexico.

In this connection I wish to read a communication from President Lincoln to the Senate:

WASHINGTON, June 23, 1862.

To the Senate of the United States:

On the 7th day of December, 1861, I submitted to the Senate the project of a treaty between the United States and Mexico, which had been proposed to me by Mr. Corwin, our minister to Mexico, and respectfully requested the advice of the Senate thereupon.

On the 25th day of February last a resolution was adopted by the Senate to the effect "that it is not advisable to negotiate a treaty that will require the United States to assume any portion of the principal or interest of the debt of Mexico, or that will require the concurrence of European powers."

This resolution having been duly communicated to me, notice thereof was immediately given by the Secretary of State to Mr. Corwin, and he was informed that he was to consider his instructions upon the subject referred to modified by this resolution and would govern his course accordingly.

That dispatch failed to reach Mr. Corwin, by reason of the disturbed condition of Mexico, until a very recent date, Mr. Corwin being without instructions, or thus practically left without instructions, to negotiate further with Mexico.

In view of the very important events occurring there, he has thought that the interests of the United States would be promoted by the conclusion of two treaties, which should provide for a loan to that Republic. He has, therefore, signed such treaties, and they having been duly ratified by the Government of Mexico, he has transmitted them to me for my consideration. The action of the Senate is, of course, conclusive against an acceptance of the treaties on my part. I have nevertheless thought it just to our excellent minister in Mexico and respectful to the Government of that Republic to lay the treaties before the Senate, together with the correspondence which has occurred in relation to them. In performing this duty I have only to add that the importance of the subject thus submitted to the Senate can not be overestimated, and I shall cheerfully receive and consider with the highest respect any further advice the Senate may think proper to give upon the subject.

On March 5, 1862, President Lincoln submitted to the Senate a copy of a message addressed to them by President Buchanan relating to the award made by a joint commission under the convention between the United States and Paraguay, together with the original journal of the proceedings of the commission, and requested the advice of the Senate as to the final acquiescence in or rejection of the award of the commission by the Government of the United States. He requested also that the Senate return the journal, as it was a document which should be returned to the custody of the Secretary of State.

Oh, Mr. President, compare that with the denial of the present Executive made again and again to the Senate to have put into its possession anything approaching memoranda of the proceedings of this peace commission that transacted this important business at Versailles, to aid the Senate in considering this treaty. All, everything pertaining to the daily discussion of the different terms of this great document, so far-reaching in its consequences, withheld from the Senate that must be bound by its concurrence therein, not to speak of the treaties that are bound up with this treaty and with the league covenant, to which the Senate, when it concurs, if it ever should, in this document, bind this country as to the other documents withheld from the Senate.

Mr. President, I undertake to say that in all the history of governments which are even an approach to a democratic form of government, there never has been such an exhibition of autocratic power as that to which this body has submitted at the hands of the present Executive.

President Johnson, following the footsteps of his immediate predecessors, on January 15, 1869, asked the advice of the Senate concerning the proposed naturalization treaty with Great

Britain in conformity with the London protocol of October 9, 1868.

President Grant adopted the same course. In the communication to the Senate under date of May 18, 1872, he said:

I transmit herewith the correspondence which has recently taken place respecting the differences of opinion which have arisen between this Government and that of Great Britain with regard to the powers of the tribunal of arbitration created under the treaty signed at Washington May 8, 1871.

I respectfully invite the attention of the Senate to the proposed article submitted by the British Government with the object of removing the differences which seem to threaten the prosecution of the arbitration and request an expression by the Senate of their disposition in regard to advising and consenting to the formal adoption of an article such as is proposed by the British Government.

The Senate is aware that consultation with that body in advance of entering into agreements with foreign states has many precedents. In the early days of the Republic, Gen. Washington repeatedly asked their advice upon pending questions with such powers. The most important recent precedent is that of the Oregon boundary treaty in 1846.

The importance of the results hanging upon the present state of the treaty with Great Britain leads me to follow these former precedents and to desire the counsel of the Senate in advance of agreeing to the proposal of Great Britain.

President Arthur followed the same practice, and on June 9, 1884, submitted to the Senate in advance of any negotiations a proposal from the ruler of the Hawaiian Islands to extend the reciprocity agreement then in force for a period of seven years.

In very recent years the proposed treaties have often been dealt with by the Presidents in annual or general messages instead of special messages, and the whole matter opened in that way for general discussion between the President and the Senate for a complete understanding.

Treaty negotiations have often been begun by the Executive in response either to joint or Senate resolutions advising such negotiations.

Such was the resolution of March 4, 1909, requesting the President to renew negotiations with Russia concerning the treatment of American citizens in Russia.

So also in some instances Presidents have designated as commissioners to negotiate treaties Members of the Senate and of the Foreign Relations Committee, as in the case of the commissioners appointed by President McKinley September 13, 1898, to negotiate the treaty of peace with Spain. It will be remembered—indeed, I think there are a number of Members of the Senate to-day who were then Members of the Senate—that President McKinley at that time gave to the Senate a majority of the membership of the commission that negotiated the treaty with Spain. The membership of that commission was as follows: William R. Day, late Secretary of State, chairman of the commission; Cushman K. Davis, Senator, and at that time chairman of the Committee on Foreign Relations; William P. Frye, Senator, and also a member of the Committee on Foreign Relations; George Gray, Senator, and a member of the Committee on Foreign Relations at that time; Whitelaw Reid, late minister plenipotentiary of the United States to France. That was the commission that negotiated the treaty with Spain at the conclusion of the War with Spain in 1898.

That was in a marked degree a recognition of the Senate as a concrete authority and power in the making of treaties. The practice, I believe, has been uniform, or practically uniform, for the Presidents to transmit to the Senate information concerning any proposed treaty in response to a resolution of the Senate requesting it. Where the treaty has come before the Senate in a completed form for its action without having been previously advised with by the Executive, the Senate has never hesitated—unless this shall make the first record of that sort—to reject the treaty if it was deemed objectionable. For example, the Senate refused concurrence in proposed treaties with Great Britain in January, 1869; June, 1886; February, 1888; and January, 1897.

It will serve no good purpose, Mr. President, to go over the long list of treaties which have been rejected by the Senate which came to it for consideration for the first time in completed form, because it is a fact of history that the Presidents after a time, particularly when our Government had passed beyond the influence of the period of the making of the Constitution, began to reach out for more and more executive power. It is sufficient to say that whenever an Executive has assumed that the situation was such that the advice of the Senate could be obtained by submitting the treaty in completed form for its consideration without previous conference, the Senate has in such cases invariably insisted upon the right to the same freedom of action as it would have possessed had it been consulted at an earlier stage of the negotiations.

I shall not attempt to exhaust the precedents upon this subject, nor would it serve any useful purpose to do so. It is not to be expected that through a period of almost a century

and a half and the administration of 27 different Presidents there would be perfect uniformity on all occasions; but, to the great credit of all previous Presidents, be it said that through the administrations of nearly all runs a clear recognition of the constitutional mandate to advise with the Senate in making a treaty.

The policy of our greatest Presidents has been to seek the advice of the Senate concerning a proposed treaty in advance of negotiations, where that was feasible. In many instances, of course, that has not been feasible and has not been done. In many instances the will of the Senate and the wishes of the parties to the treaty were well known and the interests of the United States were perfectly clear. In such cases few, if any, doubtful questions were involved in the negotiation of the treaty, and the advice of the Senate could be freely given upon the completed draft of the document, which, however, if found faulty could be amended or rejected without in any way jeopardizing the interests of the country. But the rule to be deduced from all the precedents, and which is expressed so clearly in the Constitution as hardly to require the citation of authorities, is that the President is bound to advise with the Senate at some stage in the process of making a treaty which will leave the Senate free to give its advice solely on the merits of the proposed treaty, and when the President is free to accept and act upon the advice which the Senate gives him.

I concede, of course, Mr. President, that there is no power in the Senate to compel the President to do that; and many of the text writers upon this subject have treated it just from that standpoint alone in discussing the question of the power of the Senate to compel the President to advise with the Senate in the making of a treaty. Of course, the Senate has no other power over the Executive than the power of impeachment upon articles presented by the House of Representatives, and a critical and close reading, I think, of the discussion that has been had shows that it is directed chiefly to that point.

No other interpretation than that which I have given, as it seems to me, of the Constitution is possible if this language is to be understood in its plain, ordinary sense, and no other interpretation is possible, in view of the construction which, by their official acts, Washington and the other Presidents of the country, particularly those who caught the spirit of the Constitutional Convention from the time in which they lived, have placed upon it. What I have said is the very least that any President can do in advising with the Senate in making treaties and still claim to have obeyed the Constitution, and particularly when treaties relate to changes in the very substructure of this Government.

Sir, has President Wilson, in conducting the negotiations respecting the treaty now before the Senate, obeyed either the letter or the spirit of the Constitution, or has he violated both? Did he ask the advice of the Senate upon this most far-reaching treaty ever negotiated since the world began, at a stage of the negotiations where the Senate was free to discharge its constitutional duty of considering this treaty upon its merits and advising the President accordingly? We all know that he did not. We all know, moreover, that he deliberately and for months after he had started negotiations refused to call the Senate into session in order that neither by resolution nor otherwise could it seek information or make suggestions concerning the negotiation of this treaty which the President was then conducting in person in a foreign land. The Senate, of course, could not convene itself; and so for many weeks he avoided even the criticism of not taking into his confidence the coordinate treaty-making branch of the Government.

When the exigencies of the United States, of course, required the calling of a special session, the President still in no way recognized his constitutional duty to advise with the Senate or to permit it to have any information concerning the amazing covenants, undermining the sovereign rights of this Government, or to know anything about the enormous burdens imposed upon it, or to have an intimation of the base surrender of the professed principles and high purposes for which the American people have been persuaded to believe that they were sacrificing priceless lives in fighting a foreign war.

Why did President Wilson take this course? There is but one answer. He knew that he was engaged in framing a treaty many provisions of which were as shocking to the moral sense of the people of this country as they are to a majority of the Senate, and he knew that if knowledge of those conditions came to the Senate, the Senate, whether its advice were sought or not, would by resolution or otherwise advise the President and his associates in Paris who were framing this treaty that the Senate would never concur in a treaty containing monstrous provisions which undermine the independence and sovereignty of this Government.

Suppose, sir, the President had informed the Senate that the shameful secret treaties between the Allies, partitioning the world between themselves as spoils of war, were to be carried out by the terms of the treaty about to be made and asked the advice of the Senate thereon; we all know what the result would have been. The Senate, sir, would have with practical unanimity advised the President that the Senate would never concur in such an infamous treaty of spoliation, which would have inevitably disgraced and dishonored this Nation.

I say, sir, that the Senate would have taken this action with practical unanimity, for I assume that there is not a Senator here whose self-respect and sense of decency would have permitted him to have taken any other course. That was the situation which the Constitution required the President to advise with the Senate. Then the Senate would have been under no compulsion; it would have been free to have advised the President of its real thought and honest judgment, and the President in turn must have communicated the judgment of the Senate to the other members of the conference, and the objectionable provisions would never have been written into the treaty; or, if they had been written into it, it would have been with full notice that the treaty would be rejected by the Senate.

Suppose, sir, that during the course of the negotiations in Paris President Wilson had informed the Senate that it was proposed to write into the treaty a provision that Great Britain should have six times the voting strength of the United States in this league which was being formed, and asked the advice of the Senate upon that proposition. It would be an insult to every Member of the Senate to suggest that there would have been any dissent from the indignant declaration this body would have promptly transmitted to the President declaring its unalterable opposition to concurring in any such provision in the treaty.

Suppose, sir, the President from his secluded retreat at Versailles had informed the Senate that they proposed to put a provision in this treaty which would rob China, a sister republic and one of the allies in the war, of an area of territory larger than England, with incalculable wealth and great military importance, and turn it over to Japan. Why, sir, we can hardly imagine the indignation with which so monstrous a proposition would have been rejected by the Senate.

Mr. President, I might stand here and enumerate proposition after proposition in this document which shocks the moral sense of any rational mind, every one of which the Senate would unhesitatingly have advised the President should never find place in this treaty.

Why is it, Mr. President, that this was not the course pursued? Every person in this Chamber knows the answer. It was because the President was determined that the Senate should have no opportunity to express itself concerning this treaty or any of its shameful provisions until such time as he could coerce the Senate into taking the action he desired by holding over it the threat that, if the treaty was amended in any particular, peace would be indefinitely postponed.

I do not know whether the President was moved to take this course by anything other than a sincere but misguided conviction that he was really acting for the best interests of the people of the United States in signing this treaty, a large portion of which no man has ever undertaken to defend. I do not know to what extent, if any, an ambition to see himself the first president of the league of nations dulled his appreciation of the injustice involved in this treaty; but I can not conceive of a normal man, under normal conditions, who, being duly regardful of his responsibilities, could bring himself to set his hand and seal to the indefensible provisions of this treaty.

What the President's ambitions or what his motives and purposes were is immaterial. The course which he deliberately chose to take concerning this treaty, by which the Senate was deprived of all possibility of advising him respecting its terms until the Senate could be coerced, by the fear of continuing a state of war, into accepting the treaty, though contrary to its judgment, is just as much a violation of the Constitution as it would have been for the President to refuse to submit the treaty to the Senate at all.

The Constitution, when it required the President to advise with the Senate, intended in the first place that that advice should represent the deliberate, free thought and judgment of the Senate, and in the second place it was intended that it should be received at a time when the President was free to act upon it. The President so managed the negotiations respecting this treaty as to defeat the entire constitutional provision. He has proceeded exactly as though there was no requirement of the Constitution that he should advise with the Senate on the subject at all. He has gone even further than that. He has

proceeded in such a manner as to render it impossible for the Senate to advise with him effectively upon the subject, and also in such a manner as to compel the Senate to concur in the treaty or else leave the country still in a state of war. Every Senator knows that if this treaty is ratified without fundamental and far-reaching amendments it will be done not because a majority of the Senate are not in favor of such amendments, but because they are ready to forego the amendments in order to have peace formally declared. They have been placed by the President in a position where they must say to their constituents and to the country: "This is a shameful treaty, but the President left us no choice but to approve it or continue in a state of war. Of the two evils, we chose that which seemed to us the lesser." That, sir, in the last analysis is the whole of the argument which will prevail if this treaty is concurred in.

It would be an insult to the memory of the wise and patriotic men who framed our Constitution to suppose that they ever intended that the great treaty-making power with which they endowed the Senate should be so prostituted as to become merely a means of registering the President's will. We know that nothing of the sort was intended by the framers of the Constitution, and the language of the Constitution permits no such construction. Nothing of the sort can happen if Senators perform their sworn duty under the Constitution, no matter what are the desires and ambitions which move the President.

I am not arguing that a good treaty should be rejected or amended merely because a President disregarded the Constitution in refusing to advise with the Senate concerning it; but I do say that any treaty which comes into the Senate under such a cloud should be regarded with suspicion. The presumption is against it.

In the present case, however, the iniquities of the treaty are admitted. The ratification of this treaty is not demanded upon its merits, but only because its ratification is believed by some to be the lesser of two evils.

Mr. President, if the Senate meets its responsibilities and discharges its constitutional duty, this treaty will be either materially amended or it will be rejected so decisively that no President in the future will ever attempt to make a treaty involving matters of supreme importance in our international relations, to say nothing of an attempt to reconstruct our Government, without at least advising with the Senate in his monumental undertaking.

Mr. WALSH of Montana. Mr. President, in view of the very fierce attack made by the Senator from Wisconsin [Mr. LA FOLLETTE] yesterday and to-day on the President of the United States, charging him with having violated the Constitution of the United States in failing to take the advice of the Senate with respect to the treaty with Germany, I read from volume 1 of Willoughby on the Constitution, section 192, particular reference being made, in the extract which I shall read, to the experience of President Washington, to which reference has been made by the Senator in his remarks:

With respect to the manner in which treaty making is, according to the Constitution, to be conducted, the first question that arises is as to the extent to which the Senate may properly participate not only in the ratification but in the preliminary negotiation of international agreements.

In the same clause, indeed in the same sentence, of the Constitution in which provision is made for entering into treaties it is provided that the President "shall nominate and, by and with the advice of the Senate, shall appoint ambassadors, other public ministers, and consuls," etc. Here the phraseology shows that the act of nominating the public officials mentioned is clearly distinguished from their appointment. They are to be nominated by the President, but to be appointed by the Senate and President. The negotiating of treaties is not, however, by the phraseology of the treaty clause thus sharply distinguished from their ratification as regards the Federal organs by which this negotiation and ratification is to be performed. The language is that the President "shall have power, by and with the advice and consent of the Senate, to make treaties," not that "he shall negotiate and, with the consent of the Senate, ratify treaties."

As further indicative of an intended participation of the Senate in the negotiation of treaties is the fact, already adverted to, that in the convention, until almost the last moment, it was agreed that the treaty-making power should be vested exclusively in the Senate, a body the membership of which at that time it was thought would remain comparatively small.

Actual practice exhibits frequent instances in which the Senate has participated in the negotiation of treaties.

During the first years under the Constitution the relations between the President and the Senate were especially close. In 1789 President Washington notified the Senate that he would confer with them with reference to a treaty with certain of the Indian tribes and on the next day, and again two days later, went with Gen. Knox before that body for that purpose.

Again, in 1790, President Washington, in a written communication, asked the advice of the Senate as to a new boundary treaty to be entered into with the Cherokees. So, also, in 1791, he asked the Senate to advise him as to what answer to be made to the French chargé d'affaires with regard to a question of tonnage on foreign vessels.

John Quincy Adams in his memoirs relates that Crawford told him that Washington went to the Senate with a draft of a treaty; that "they debated it and proposed alterations, so that when Washington left the Senate Chamber he said he would be damned if he ever went

there again. And ever since that time treaties have been negotiated by the Executive before submitting them to the consideration of the Senate."

In fact, however, the Presidents did continue occasionally to consult with the Senate in regard to the negotiation of treaties.

In 1794, when sending the name of John Jay as envoy extraordinary to England, Washington explained to the Senate his purpose in doing so, and the same was done by President Adams in 1797 when nominating the special commission to France.

After the first few years under the Constitution, however, the practice on the part of the President of consulting the Senate with regard to the treaties to be negotiated, became an infrequent one, but yet not one wholly obsolete. Thus, in 1818, President Monroe asked the Senate whether he alone as Executive was constitutionally competent to arrange with Great Britain as to naval armaments upon the Great Lakes; and, if not, that they should give him advice as to the proper agreement with reference thereto, that should be entered into. Again, in 1830, President Jackson asked the advice of the Senate as to the terms of a treaty to be negotiated with the Choctaw Indians. His message, however, bears evidence to the fact that he is aware that he is departing from the practice of years immediately preceding, though not from that of the early period. He says: "I am aware that in thus resorting to the early practice of the Government, by asking the previous advice of the Senate in the discharge of this portion of my duties, I am departing from a long, and, for many years, unbroken usage in similar cases. But being satisfied that this resort is consistent with the provisions of the Constitution, that it is strongly recommended in this instance by considerations of expediency, and that the reasons which have led to the observance of a different practice, though very cogent in negotiations with foreign nations, do not apply with equal force to those made with Indian tribes, I flatter myself that it will not meet with the disapprobation of the Senate."

In the article already referred to Senator LODGE enumerates a not inconsiderable number of instances down to comparatively recent times in which the Senate has participated in the negotiation of treaties.

In a number of cases the Senate has by resolution suggested to the President that certain negotiations be initiated.

I read no further, Mr. President, except to say that the author agrees, as all who have inquired into the subject agree, that the practice is altogether exceptional, and that the rule is that the President does not confer with the Senate with regard to treaties until they have actually been negotiated.

I do not read from the volume before me for the purpose of refuting the able argument of the Senator from Wisconsin, but merely to show that the crime, if it be a crime, laid by him at the door of the President of the United States, is one which practically every President of the United States from Washington down has been guilty of. I do not need to say, Mr. President, that in this particular instance the President of the United States might not commendably have taken the Senate more freely into his confidence. I assert, however, that he was entirely within his constitutional rights, as the Constitution has been construed from the very earliest days of our history down to the present time, in the course he has taken.

Mr. President, I desire to submit another reference in this connection. There was at one time a Member of this body from the State of the Senator who has indulged in these animadversions upon the President of the United States who had no little distinction as an expositor of the Constitution. I refer to the late Senator John C. Spooner, from the State of Wisconsin. He had occasion to inquire into this matter, and had something to say about it on the 23d day of January, 1906. I read from the CONGRESSIONAL RECORD of that date, as follows:

The Senate has nothing whatever to do with the negotiation of treaties or the conduct of our foreign intercourse and relations save the exercise of the one constitutional function of "advice and consent," which the Constitution requires as a precedent condition to the making of a treaty. Except as to the participation in the treaty-making power the Senate under the Constitution has obviously neither responsibilities nor power.

And then, being interrogated by a Senator as to what significance he gave to the words "advice and consent," as used in the Constitution, he said:

The words "advice and consent of the Senate" are used in the Constitution with reference to the Senate's participation in the making of a treaty and are well translated by the word "ratification" popularly used in this connection. The President negotiates the treaty, to begin with. He may employ such agencies as he chooses to negotiate the proposed treaty. He may employ the ambassador, if there be one, or a minister or a chargé d'affaires, or he may use a person in private life whom he thinks by his skill or knowledge of the language or the people of the country with which he is about to deal is best fitted to negotiate the treaty. He may issue to the agent chosen by him—and neither Congress nor the Senate has any concern as to whom he chooses—such instructions as seem to him wise. He may vary them from day to day. That is his concern. The Senate has no right to demand that he shall unfold to the world or to it, even in executive session, his instructions or the prospect or progress of the negotiation. I said "right." I used that word advisedly in order to illustrate what all men who have studied the subject are willing to concede, that the Constitution, the absolute power of negotiation, is in the President and the means of negotiation subject wholly to his will and his judgment.

When he shall have negotiated and sent his proposed treaty to the Senate the jurisdiction of this body attaches and its power begins. It may advise and consent or it may refuse. And in the exercise of this function it is as independent of the Executive as he is independent of it in the matter of negotiation.

The views thus expressed by the eminent Senator were very warmly indorsed by the present senior Senator from Massa-

chusetts [Mr. LODGE], the chairman of the Foreign Relations Committee.

I believe, Mr. President, that at this stage of our history it is a little late to discuss the question as to whether the President of the United States violates the Constitution by submitting to the Senate a treaty for its advice and consent without having communicated with it during the course of negotiations. Mr. President, it does not make a bit of difference, so far as the crime is concerned, whether the treaties negotiated by a President of the United States without conferring with the Senate during the process of negotiations were important or unimportant. If the construction is correct that he violates the Constitution when he does not do so, it is entirely irrelevant whether he neglected to do it in the case of unimportant, even trivial treaties. It can not be contended, either, that the Presidents in the past have neglected to do so only in the case of unimportant treaties. In fact, quite the contrary has been the rule.

Mr. ROBINSON. Mr. President, supplementing briefly the statement which has just been made by the Senator from Montana [Mr. WALSH], I desire to call attention to some remarks made by the Senator from Ohio, Mr. Sherman, chairman of the Committee on Foreign Relations, in the Senate on August 7, 1888, which, I think, correctly state the power of the President in connection with the negotiation of treaties. He said:

The President of the United States has the power to propose treaties subject to ratification by the Senate, and he may use such agencies as he chooses to employ, except that he can not take any money from the Treasury to pay those agents without an appropriation by law. He can use such instruments as he pleases.

That excerpt is taken from a statement made by Mr. Sherman on August 7, 1888. It has been apparent, during the course of this debate, that there is an implied, if not an expressed, criticism of the President for his failure to appoint members of the peace commission. There are three distinct proceedings in the making of a treaty—the negotiation, the advice and consent by the Senate, and the exchange of ratifications. The first and the last—the negotiation of the treaty and the exchange of ratifications—are, according to all the authorities with which I am familiar, exclusively executive functions.

I do not express an opinion as to the wisdom of the policy pursued by the President in failing to include Senators as representatives of this Government at the peace conference, but merely remark that the proceedings in the Senate—the debates—disclose that upon the part of some Senators, at least, he could not have secured sincere cooperation and assistance in the preparation of any treaty of peace which might have been acceptable to the Senate, and if the disagreements that have been expressed in the Senate as to what the treaty should contain had been reflected in the peace conference it is probable that the resurrection would have occurred before any treaty would have been successfully negotiated and submitted to the Senate.

The very eminent authority referred to by the Senator from Montana [Mr. WALSH] made another statement, in addition to that read by the Senator from Montana, which I take the liberty of reading into the RECORD as reinforcing the argument and position of the Senator from Montana. Mr. John C. Spooner made the declaration in the Senate on January 26, 1906:

The President is so supreme under the Constitution in the matter of treaties, excluding only the Senate's ratification, that he may negotiate a treaty, he may send it to the Senate, it may receive by way of "advice and consent" the unanimous judgment of the Senate that it is in the highest degree for the public interest, and yet the President is as free, when it is sent back to the White House with resolutions of ratification attached, to put it in his desk never again to see the light of day as he was free to determine in the first instance whether he would or would not negotiate it. That the power is not expressly given to the President by the Constitution, but it inheres in the executive power conferred upon him to conduct our foreign relations, and it is a power which inheres in him as the sole organ under the Constitution through whom our foreign relations and diplomatic intercourse are conducted.

Thus, Mr. President, it appears that the duty devolves upon the Executive to negotiate a treaty and to make exchange of ratifications.

Senators who spend their time day after day in bitter denunciation of the President of the United States for his failure to consult them and to procure in advance their advice concerning the discharge of his functions may well attempt in the same connection to satisfy the country that they are efficiently discharging their constitutional functions. During the last six months two important measures, and only two, outside of the great appropriation bills, have been before the Senate of the United States. The first is the treaty of peace, and now, in an hour when the session is drawing to a close, it appears probable that final action may not be taken on the treaty, that there may be a failure to finally dispose of that all-important subject during the present session.

The other important question is the disposition of the railroads now under Federal control. We have sat here month after month and listened to the recitation of arguments with which we are all familiar. There is not a Senator in this Chamber or outside of it who does not know that the argument which we make here now will not influence or change the votes of Senators on the important questions relating to this treaty. Yet we are preventing the Congress from considering and disposing of other important subjects, including the railroad question, by constantly holding in front of it this subject, the treaty of peace, which should have been ratified long ago.

I believe in freedom of debate, and so long as any Senator fairly believes that he can impress his viewpoint upon his colleagues, debate may well continue, but day after day, week after week, we have heard the same arguments repeated over and over, and now in a few days the session will close, and there is a probability, a possibility if not a probability, that it will expire without a single important act having passed the Congress.

The responsibility for legislation now is primarily upon the other side of this Chamber—upon the majority. If they want to assume responsibility for holding up the final disposition of the treaty of peace, if they want to assume the responsibility for failing to consider and determine the railroad question, let them do so. But this country will know where that responsibility rests, and the majority must bear that responsibility. They can not, they shall not, escape it.

Mr. LODGE. Mr. President—

Mr. HITCHCOCK. Will the Senator yield to me for a moment?

Mr. LODGE. No; I am going to suggest the absence of a quorum, as I want to have the pending amendment disposed of.

Mr. HITCHCOCK. I simply desire to ask to have a reprint of Document 139, which is supposed to be a compendium of reservations, so that it may be correct up to date, and include the reservation offered by the Senator from Massachusetts on behalf of the Committee on Foreign Relations the last session, and also all other reservations that have been offered.

Mr. LODGE. The others are not in the document?

Mr. HITCHCOCK. Not the others.

Mr. LODGE. I have no objection to the request.

Mr. HITCHCOCK. I simply desire to have it brought up to date, and to include all reservations pending at the present time.

The PRESIDING OFFICER (Mr. SMOOR in the chair). Without objection, the request of the Senator from Nebraska is granted.

Mr. LODGE. The pending amendment is the amendment offered by the Senator from Oklahoma [Mr. GORE]. I hope we can now take a vote upon it. I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is suggested, and the Secretary will call the roll.

The Secretary called the roll, and the following Senators answered to their names:

Ashurst	Gore	McCumber	Simmons
Ball	Gronna	McKellar	Smith, Ariz.
Borah	Hale	McLean	Smith, Ga.
Brandegee	Harris	McNary	Smith, Md.
Calder	Harrison	Moses	Smith, S. C.
Capper	Henderson	Nelson	Smoot
Chamberlain	Hitchcock	New	Spencer
Colt	Johnson, Calif.	Newberry	Sterling
Culberson	Johnson, S. Dak.	Norris	Sutherland
Cummins	Jones, N. Mex.	Nugent	Swanson
Curtis	Jones, Wash.	Overman	Thomas
Dial	Kellogg	Owen	Townsend
Dillingham	Kendrick	Page	Trammell
Edge	Keyes	Phipps	Underwood
Elkins	King	Pittman	Wadsworth
Fall	Kirby	Pomerene	Walsh, Mass.
Fernald	Knox	Ransdell	Walsh, Mont.
Fletcher	La Follette	Reed	Warren
France	Lenroot	Robinson	Watson
Frelinghuysen	Lodge	Sheppard	Williams
Gay	McCormick	Sherman	Wolcott

The PRESIDING OFFICER. Eighty-four Senators have answered to their names. There is a quorum present.

The pending question is on the amendment offered by the Senator from Oklahoma [Mr. GORE]. [Putting the question.] The yeas seem to have it. The yeas have it, and the amendment is rejected.

Mr. LODGE. That is the last amendment to be offered that I am aware of.

Mr. LA FOLLETTE. I ask for the yeas and nays on the amendment offered by the Senator from Oklahoma.

Mr. UNDERWOOD. I make the point of order that the request comes too late.

Mr. LA FOLLETTE. Then we will take time to present it in the Senate later, and will have a roll call on it there.

Mr. LODGE. I hope the Senator from Alabama will withdraw the point of order.

Mr. GRONNA. I ask unanimous consent for a reconsideration of the vote just taken.

Mr. LODGE. I am perfectly willing to have the vote taken by yeas and nays.

The PRESIDING OFFICER. Is there objection to a reconsideration?

Mr. UNDERWOOD. Will the Chair have the amendment read?

The PRESIDING OFFICER. The Secretary will read the amendment.

The SECRETARY. On page 27, line 5, at the end of the first paragraph of article 12 of the covenant of the league of nations, after the words "they agree in no case to resort to war until three months after the award by the arbitrators or the report by the council," insert the following: "and not then until an advisory vote of the people shall have been taken"; so that the first paragraph of article 12 will read:

The members of the league agree that if there should arise between them any dispute likely to lead to a rupture, they will submit the matter either to arbitration or to inquiry by the council, and they agree in no case to resort to war until three months after the award by the arbitrators or the report by the council, and not then until an advisory vote of the people shall have been taken.

The PRESIDING OFFICER. The junior Senator from North Dakota [Mr. GRONNA] asks unanimous consent that the vote by which the amendment was rejected shall be reconsidered. Is there any objection? The Chair hears none, and the vote is reconsidered. The question is on agreeing to the amendment.

Mr. REED. Mr. President—

Mr. GORE. Will the Senator allow me to say that a request for the yeas and nays was pending; that I made it yesterday at the time I concluded my remarks?

Mr. LA FOLLETTE. I think that is true. I think the yeas and nays were requested by the Senator from Oklahoma at the time he concluded his remarks. I am not sure whether they had been ordered or not.

The PRESIDING OFFICER. The Chair will state that he is informed that the yeas and nays were requested, but had not been ordered.

Mr. REED. I yield for the purpose of having that request presented at this time.

Mr. GRONNA. Upon the amendment now pending I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. REED. Mr. President, I want just enough time to explain the vote I intend to cast upon this amendment.

Ordinarily I do not believe in the doctrine that war shall never be declared except after a referendum vote. I believe that proposition is impracticable. I believe that when nations are called upon to act in some great emergency they must generally act quickly and that there is no time for a referendum vote. Indeed, the life of a nation may be sacrificed by a delay of a few hours. The great wars of history have demonstrated that they are not arranged, like prize fights, days in advance, with all arrangements made and an audience invited. Some nations strike quickly, and because that occurs, or is likely to occur, it is absolutely necessary that any sovereign nation shall have reserved to its government, in some of its branches, the right to determine when and how the nation shall strike or act in a great emergency.

Whoever has perused the history of great wars knows that it may be said with practical certainty that there never has been a great war when the very conditions to which I have referred have not obtained. If I remember correctly, Japan attacked Russia and sunk a part of Russia's fleet before she even declared war at all. If you undertook to apply to the last war the ridiculous—and it is to me ridiculous—proposition of a referendum vote, you would find that while the rest of the countries were voting Germany would have been marching.

Of course, a referendum vote, if it applied to every nation and would be observed by every nation, would be quite a different thing; but as the world is constituted today and as the world will be constituted even if the covenant of the league of nations is adopted, it still remains true that any nation at any moment might disregard these obligations, if we were to write them into the league of nations itself, and prepare to strike some other nation. No man can say what the circumstances will be. While one nation is voting another nation will be capturing its citadels, landing its troops on its soil, and closing its ports.

Of course, if we can bring all the nations of the world into a society of nations; if we can set up a supergovernment; if that supergovernment is going to control; and if everybody is going to observe the conditions of the agreement, then it may be all right to agree never to fight until we vote; but we ought

to add to that that we will not fight after we have voted; that we will settle everything without war.

Here is the anomaly that is presented to-day to the world by this treaty or this compact: It proposes that we shall settle all wars, and yet it provides for war. It pretends that we are going to create an organization that will end war, and yet it directly specifies the terms and the conditions upon which war can be made even among members of the league. A question is submitted for decision to the council or to the assembly which involves a dispute between two nations, and if there is not a unanimous vote in the council and a unanimous vote in the assembly of the members of the council plus a majority vote of the other members of the assembly, then any nation is at perfect liberty to make war if it sees fit. There is a delay of three months specified.

Now, the Senator from Oklahoma [Mr. GORE] seeks to add to that clause the proposition of a vote, and I believe that his proposition of a referendum to the people is logical as attached to that clause. I am going to vote for it as an amendment to that clause, because I think it is consistent with it; but if it stood alone as a naked proposition to be submitted to the nations of the world, I could not vote for it. If, however, we are to adopt the proposition of three months' delay, there is no reason, in my opinion, why we can not add to that period of delay the further condition of a vote by the people. So, upon that ground, and that alone, I intend to vote for this resolution.

Mr. GRONNA. Mr. President, I do not wish to delay the taking of a vote upon the pending amendment, but it is an amendment which I believe means a great deal to the people of the country. I have always advocated the elimination of war. I have always believed that it would be possible for Congress to enact a law which would give the people of the country the right, at least in an advisory way, to say whether or not we should go to war. I know that such a statement is very displeasing to some of the ultraradicals and were it not for the fact that some of them are now pleading for peace merely for the purpose of adopting this treaty, I think I could hear their voices raised in denunciation of such a proposition. I am anxious to have a record vote on this proposition regardless of whether my associates on this side favor it or not.

The people of the country furnish the men to fight the war. The mothers of the country rear the children and their parents educate them; the people of the country pay for the wars; Congress does not pay for the wars; Congress only appropriates the money, which belongs to the people; yet it seems that some would make us believe that we ought to be rebuked and punished when we suggest the proposition that an advisory vote shall be taken whether or not we shall go to war. No man who is honestly and sincerely for lasting and permanent peace and who wishes to obviate war will oppose a proposition like that offered by the Senator from Oklahoma [Mr. GORE].

Mr. President, those of us who had our sons in the late conflict know what war means. I realize, of course, that for a person who is not opposed to war and who has no one, especially no boys of his own, to send to war, such a person does not find it so difficult to vote for war.

We are now beginning to realize what it has cost us to go through all these wars, first our Revolutionary War, and then what it cost us to perpetuate this Union, when we had an internecine strife. Is it not reasonable to believe that when it is only internecine strife we could at least obviate or eliminate war?

Nobody is complaining, Mr. President—at least, I am not complaining—because we have in the past engaged in war; but we are proposing now to prevent war and to promote lasting peace. I do not know by what mode of reasoning we can say that there shall be no more wars, while we are preparing for war to the utmost, building up armies and navies, expending the people's money by the billions, and taking it out of the power of the people to say, even in an advisory manner, whether we shall have war. I can not see how you are going to square such activities with your mode of reasoning nor how you are going to perpetuate peace.

Militarism breeds wars. If Germany had not been prepared, as she had been preparing for years, she would not have marched her armies into Belgium and France, and her Government would not have been destroyed. It was militarism that destroyed Germany, and the people of Germany had nothing whatever to say about the war. It was the military chiefs who built up that powerful military machine.

However, it seems, Mr. President, that it is always very dangerous, because it might set a bad precedent, to submit anything to the judgment of the American people. I may be entirely mistaken, but I honestly and sincerely believe that the amendment proposed by the Senator from Oklahoma, if it is

written into this treaty, will be one of the most effective means of obviating future wars. We refuse to reduce armaments; instead of reducing armaments, we are by the very provisions of the pending treaty holding up and increasing them.

Mr. President, I have no hesitancy in saying that if this amendment stood by itself alone I should be very glad to vote for it.

The PRESIDING OFFICER. The pending question is on the amendment offered by the Senator from Oklahoma [Mr. GORE]. The yeas and nays have been ordered. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. CURTIS (when his name was called). I have a pair for the day with the Senator from Rhode Island [Mr. GERRY]. In view of his absence I withhold my vote.

Mr. JOHNSON of California (when his name was called). I have a pair with the senior Senator from Virginia [Mr. MARTIN], and therefore withhold my vote. If at liberty to vote, I should vote "yea."

Mr. OVERMAN (when Mr. SHIELDS's name was called). I desire to announce that the senior Senator from Tennessee [Mr. SHIELDS] is detained at home on account of sickness. If present, he would vote "nay."

Mr. SUTHERLAND (when his name was called). I have a general pair with the senior Senator from Kentucky [Mr. BECKHAM]. As he is absent, I withhold my vote.

Mr. WILLIAMS (when his name was called). I have been informed that the senior Senator from Pennsylvania [Mr. PENROSE], with whom I have a pair, has not voted. That being the case, I transfer my pair with that Senator to the senior Senator from Alabama [Mr. BANKHEAD] and vote "nay."

Mr. WOLCOTT (when his name was called). I have a general pair with the senior Senator from Indiana [Mr. WATSON]. I transfer that pair to the senior Senator from California [Mr. PHELAN] and vote "nay."

The roll call was concluded.

Mr. JOHNSON of South Dakota. I should like to ask if the Senator from Maine [Mr. FERNALD] has voted?

The VICE PRESIDENT. He has not.

Mr. JOHNSON of South Dakota. I have a pair with that Senator which I transfer to the junior Senator from Kentucky [Mr. STANLEY] and vote "nay."

Mr. MCKELLAR. I wish to announce the absence on official business of the Senator from California [Mr. PHELAN] and the Senator from Rhode Island [Mr. GERRY].

Mr. SHEPPARD. The Senator from Tennessee [Mr. SHIELDS] and the Senator from Alabama [Mr. BANKHEAD] are detained from the Senate by illness. The senior Senator from Kentucky [Mr. BECKHAM] and the junior Senator from Kentucky [Mr. STANLEY] are absent on public business.

The result was announced—yeas 16, nays 67, as follows:

YEAS—16.

Ball	France	Knox	Moses
Borah	Gore	La Follette	Norris
Capper	Gronna	McCormick	Reed
Elkins	Jones, Wash.	McLean	Sherman

NAYS—67.

Ashurst	Harrison	Nelson	Smith, Md.
Brandeggee	Henderson	New	Smith, S. C.
Calder	Hitchcock	Newberry	Smoot
Chamberlain	Johnson, S. Dak.	Nugent	Spencer
Colt	Jones, N. Mex.	Overman	Sterling
Culberson	Kellogg	Owen	Swanson
Cummins	Kendrick	Page	Thomas
Dial	Kenyon	Phipps	Townsend
Dillingham	Keyes	Pittman	Trammell
Edge	King	Polindexter	Underwood
Fall	Kirby	Pomerene	Wadsworth
Fletcher	Lenroot	Ransdell	Walsh, Mass.
Frelinghuysen	Lodge	Robinson	Walsh, Mont.
Gay	McCumber	Sheppard	Warren
Hale	McKellar	Simmons	Williams
Harding	McNary	Smith, Ariz.	Wolcott
Harris	Myers	Smith, Ga.	

NOT VOTING—13.

Bankhead	Gerry	Phelan	Watson
Beckham	Johnson, Calif.	Shields	
Curtis	Martin	Stanley	
Fernald	Penrose	Sutherland	

So Mr. GORE's amendment was rejected.

Mr. LODGE. Mr. President, I move the adoption of the following conditions and reservations to be incorporated in the resolution of ratification.

Mr. BORAH. Mr. President, is the Senator now taking up the reservations?

Mr. LODGE. Yes.

Mr. BORAH. I have a couple of amendments. I have no desire to discuss them, because I am not able to-day to discuss them, or else I should; but unless we can have an understand-

ing—and I do not suppose we can—I want to offer those amendments before the reservations are taken up.

Mr. LODGE. I suppose those amendments can be offered at any time.

Mr. BORAH. I should be glad if they could go over, because I am not in a condition to debate them. I should like a little time, but not much.

Mr. LODGE. The offering of the reservations, I take it, will not cut them off. I am not aware of anything that will prevent their being offered in Committee of the Whole.

Mr. UNDERWOOD. Mr. President, I should like to ask the Senator from Massachusetts a question with reference to the parliamentary situation.

My understanding is, under the rules, that the reservations relate to a resolution adopting the treaty, and that resolution is supposed to reflect the voice of the Senate, the conclusions of the Senate. It seems to me that it is clearly out of order to adopt a resolution of ratification or rejection until the Senate has reached a conclusion with reference to what amendments it desires to adopt.

Mr. LODGE. If the Senator will allow me to interrupt him, I am not offering the resolution of ratification.

Mr. UNDERWOOD. I understand that, but the Senator is proposing an amendment to a resolution.

Mr. LODGE. I am not. I am proposing conditions and reservations to be added to and incorporated in the resolution of ratification when that resolution is presented, which is always the last thing.

Mr. UNDERWOOD. I judged, from what the Senator was proposing to do, that he proposed to offer reservations at this time and have a vote on them.

Mr. LODGE. I do.

Mr. UNDERWOOD. Of course, if the Senator is only offering them for the information of the Senate, that is a different proposition.

Mr. LODGE. No, Mr. President; I propose to offer them now for action, and, if the Chair will permit me, reservations are not mentioned in the rules at all. The practice has been hitherto to offer reservations the last thing in the Senate, with the resolution of ratification. I am unable to see why they can not be offered in Committee of the Whole exactly as an amendment is offered, to be placed, exactly as an amendment has to be placed, upon the resolution of ratification when it is reached. That resolution can not be dealt with until the Senate has determined what amendments, if any, to make to the treaty, and what reservations, if any, it will adopt; and I have come to the conclusion, after studying the rules, that there is no reason why the reservations to be incorporated should not be offered at this stage, in order—as this treaty is of peculiar moment, unlike any other we have ever had—that the Senate may consider them in Committee of the Whole, and subsequently in the Senate, before final agreement to them.

Mr. UNDERWOOD. Mr. President, I think this question is a matter of importance to our procedure, because we have got to know where the line rests when we finally go to vote. I think that the offering of reservations in the Committee of the Whole and not in the Senate proper is undoubtedly in contravention of the letter of the rules of the Senate. As to whether the rules of the Senate can limit the constitutional power of this body to adopt reservations or amendments, I have my doubts, and I am not concerned about that part of it. So far as I am personally concerned I am not concerned as to whether it is against the letter of the rules of the Senate or not. I have no objection to the Senator offering his reservations in the Committee of the Whole instead of waiting to go into the Senate, but I do think it is important and necessary that we dispose of all of the amendments, and then take up the reservations to the resolution of ratification. If I may have the attention of the Chair for a moment, while I am not taking issue with the Senator on the question as to whether he can offer his reservations in the Committee of the Whole, I contend that it is not in order to offer these reservations in the Committee of the Whole or in the Senate until either the Committee of the Whole or the Senate has disposed of amendments.

Now, the rule distinctly says that the first business before the Senate shall be the disposition of amendments.

It is true, as the Senator from Massachusetts says, that the rule ignores reservations. It says nothing about offering reservations, but it does say that after the Senate has adopted or rejected such amendments as are proposed to the treaty, then a resolution of ratification shall be in order. A reservation is not standing out separate from a resolution of ratification or rejection. In the end it must be a part of it. Of course, if the Senator wanted to offer some interpretation independently of the resolution of ratification, and that was all he desired, he

might make progress with great ease, because there are many of us who are very much opposed to an amendment of the treaty, either by a textual amendment or a reservation, who are not very much concerned what interpretation the Senator or anybody else desires to put on the treaty.

The point I make is that, although reservations are not mentioned in the rule, the rule prescribes that the first business shall be amendment and that the next business shall be the adoption of a resolution of ratification that reflects the action of the Senate in the Committee of the Whole.

Mr. LODGE. That is not the next step.

Mr. UNDERWOOD. It is a subsequent step.

Mr. LODGE. No; they have to go to the Senate.

Mr. UNDERWOOD. Of course.

Mr. LODGE. "Of course" that is a very different proposition.

Mr. UNDERWOOD. I think, myself, under the strict rule, we could not offer a reservation here; but I have no objection to that, Mr. President. I am not seeking to press that point, as far as I am personally concerned. The point that I am pressing is that amendments must be first disposed of, because a reservation such as has been offered here, and such as I suppose the Senator is offering—

Mr. BORAH. Mr. President, I can protect my position by offering a reservation to cover the same things, referring to articles 10 and 11. I understand that is the point the Senator refers to?

Mr. UNDERWOOD. Certainly; I have no objection to voting on the amendments, but I want it to be understood that the amendments are closed before we go to a vote on reservations.

Mr. BORAH. The amendments which I am proposing to offer have already been drawn as reservations, and it was a mere matter of what I thought was courtesy to the committee of which I was a member that I offer them as amendments rather than as reservations, because the report of reservations by the committee did not cover them. I am perfectly willing to withdraw them as amendments; and if the amendments do not cover the subject satisfactorily, I will offer them as reservations.

Mr. UNDERWOOD. That is entirely satisfactory. The only point I was trying to make, Mr. President, was that we should not go into the question of adopting reservations and then go back to amendments. I wanted it understood that that door is closed when we took up reservations.

Mr. LODGE. Amendments can be offered in the Senate, of course.

Mr. UNDERWOOD. That is a question that is open to debate when we get to the Senate.

Mr. LODGE. I think I might as well read the rule:

When a treaty is reported from a committee with or without amendment, it shall, unless the Senate unanimously otherwise direct, lie over one day for consideration; after which it may be read the second time, and considered as in Committee of the Whole, when it shall be proceeded with by articles, and the amendments reported by the committee shall be first acted upon, after which other amendments may be proposed; and when through with, the proceedings had as in Committee of the Whole shall be reported to the Senate, when the question shall be, if the treaty be amended, "Will the Senate concur in the amendments made in Committee of the Whole?" And the amendments may be taken separately, or in gross if no Senator shall object; after which new amendments may be proposed.

Mr. President, I have given this matter a great deal of reflection. I am not going to repeat what I have already said, but it seems to me that as that rule stands, it is entirely in order to offer reservations in Committee of the Whole, and I think there are many reasons that might be adduced in its support. But I do not wish to delay the discussion by debating the point of order.

The VICE PRESIDENT. The Chair understands that the Senator from Alabama [Mr. UNDERWOOD] has withdrawn his point of order.

Mr. UNDERWOOD. I only made the point of order against the offering of reservations.

The VICE PRESIDENT. The Chair understood that the point was that if the Senator from Idaho [Mr. BORAH] had amendments to offer, that they must be first disposed of before the reservations.

Mr. UNDERWOOD. Undoubtedly, Mr. President.

The VICE PRESIDENT. There is no point of order pending now, the Chair understands.

Mr. UNDERWOOD. My position was that whether in the Senate or in Committee of the Whole, after we have taken up the resolution of ratification and the reservations, it is too late then to offer amendments either in the Senate or in Committee of the Whole.

Mr. LODGE. If the point of order has been withdrawn, Mr. President, I will offer the reservations.

Mr. SWANSON. I would like to understand what is the parliamentary situation. I understand the Senator from Massachusetts proposes at this time to offer reservations?

Mr. LODGE. I do.

Mr. SWANSON. Which would constitute amendments?

Mr. LODGE. I say nothing about constituting amendments. If the Senator had listened to what I move—

Mr. SWANSON. I listened very carefully.

Mr. LODGE. I moved the adoption of the following conditions and reservations to be incorporated in a resolution of ratification, which I do not, of course, offer now.

Mr. SWANSON. I understood that. Does the Senator insist that that would be in order now until the resolution of ratification is before the Senate?

Mr. LODGE. I think they are in order now. I think they are in order in the Senate. I do not think it is possible to deal with the resolution of ratification until the Senate has determined what is to go upon it, whether there are amendments to go upon it, or whether there are reservations to go upon it.

Mr. SWANSON. The only thing that seemed to me to be ambiguous was that these are offered as reservations which would be included in the resolution of ratification; that before the resolution of ratification is before the Senate you offer amendments to something you will afterwards propose to adopt. The parliamentary question I ask is, Suppose your resolution of ratification, with these reservations having been adopted in the committee, should be rejected, what would be the parliamentary status then?

Mr. LODGE. After the resolution of ratification has been defeated?

Mr. SWANSON. If the resolution should be defeated.

Mr. LODGE. The only motion then in order would be a motion to reconsider, and bring the treaty back into the Senate.

Mr. SWANSON. If the question of reconsideration then can come up, it would reopen the entire question, as the Senator understands it?

Mr. LODGE. Mr. President, I propose to offer each one of these reservations separately, so that there will be a vote upon each one. If that course is pursued in Committee of the Whole and in the Senate, of course, if a vote is taken on each reservation, each reservation would have to be reconsidered, just as if you bring a bill back, you must reconsider each amendment. But they will all be open to reconsideration in the Senate.

Mr. SWANSON. I ask the Senator this question: After you have offered reservations, and some have been adopted and others rejected, the resolution of ratification, if the resolution of ratification with the amended reservations, as you call them, should be rejected, what is the parliamentary situation then, as the Senator conceives it?

Mr. LODGE. My attention was diverted a moment. The Senator asks what would happen after a vote for reconsideration?

Mr. SWANSON. What does the Senator consider the parliamentary situation then? You offer reservations to be included in the resolution of ratification. They are agreed to, say, by the Senate in Committee of the Whole. Then you include them in your resolution of ratification. If that resolution of ratification should be rejected, including the reservations, what does the Senator consider that the parliamentary situation would then be before a reconsideration is had?

Mr. LODGE. Of course, a motion to reconsider must always apply to the vote which it is moved to reconsider. The motion would have to come, of course, from the prevailing side, which would be the minority of more than one-third.

Mr. SWANSON. Regardless of the side from which it comes?

Mr. LODGE. The Senator does not allow me to state the case.

Mr. SWANSON. I will allow the Senator to proceed.

Mr. LODGE. I have to go through these painful details in order to make it clear to my own rather slow-moving mind. You bring it back by a motion made by one of the prevailing side to reconsider, and you reconsider the vote by which the resolution was rejected, and that brings it back into the Senate with all the reservations attached to it.

Mr. SWANSON. Then what is the Senator's interpretation as to the right to substitute reservations which would then be offered or to consider the entire matter of reservations?

Mr. LODGE. The whole resolution and all the reservations, of course, are open—

Mr. SWANSON. Would be fully open to reconsideration in the Senate?

Mr. LODGE. They would have to be reconsidered.

Mr. SWANSON. I say, they would be entitled to a full reconsideration?

Mr. LENROOT. Mr. President—

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Wisconsin?

Mr. LODGE. I yield.

Mr. LENROOT. Would not the situation be, if the vote were reconsidered, to leave the resolution exactly in the same situation it was in immediately before the vote was taken?

Mr. LODGE. Certainly.

Mr. LENROOT. And subject to any parliamentary procedure that was then to be taken?

Mr. LODGE. Absolutely.

Mr. SWANSON. The only point I want to have cleared up is, if reservations have been adopted in the Senate, and then you move to reconsider, what effect would their adoption in the Senate have on the reconsideration of the resolution of ratification?

Mr. LODGE. If you reconsider it, that would bring the resolution of ratification and the reservations back into the Senate.

Mr. SWANSON. To do as it pleases with?

Mr. LODGE. Subject to any parliamentary procedure, as the Senator from Wisconsin has just suggested.

Mr. UNDERWOOD. I would like to ask the Senator from Virginia a question.

Mr. BRANDEGEE. Mr. President, is anyone recognized as having the floor?

The VICE PRESIDENT. I do not know who has the floor.

Mr. LODGE. I thought I had the floor.

Mr. BRANDEGEE. It may be immaterial, but—

Mr. LODGE. I yield to the Senator from Connecticut.

The VICE PRESIDENT. I think the Senator from Massachusetts had the floor.

Mr. LODGE. I yield to the Senator from Connecticut.

Mr. BRANDEGEE. Mr. President, I want, for the purpose of the record, to read a paragraph of the rule which provides how a resolution of ratification shall be formulated. The rule states that—

The decisions thus made shall be reduced to the form of a resolution of ratification, with or without amendments, as the case may be, which shall be proposed on a subsequent day, unless, by unanimous consent, the Senate determine otherwise; at which stage no amendment shall be received, unless by unanimous consent.

Mr. REED. Mr. President, I call for order in the Chamber. We can not hear what is going on.

Mr. McCUMBER. Mr. President—

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from North Dakota?

Mr. LODGE. I yield.

Mr. McCUMBER. Mr. President, I should like to put this matter in a very definite and concrete form. I would like to have the Senator from Massachusetts state, in his opinion, after there has been a vote to reconsider the vote by which the resolution was passed, and that vote has carried and the matter has been reconsidered, whether the resolution is then subject to amendment by the Senate or whether the only thing we can do is to vote again as to whether it shall pass or not.

Mr. LODGE. Mr. President, in the situation the Senator from North Dakota has described, it is certainly open to a motion to recommit, which would bring it back into the Senate in the same position and open to all amendments that it had at the beginning. A motion to recommit could not be cut off. As to the procedure of going back through each reservation then in Committee of the Whole, I am not clear, because the Senate has more than once, I find from the executive journals, reconsidered the vote and taken the resolution of ratification carrying the amendments right back into the Committee of the Whole. But it was done, I suppose, by unanimous consent. It could undoubtedly be done, because it has been done.

Mr. OVERMAN. In the event, Mr. President, that we come to reconsider the question in Committee of the Whole of reservations adopted, we would have to reconsider each reservation that you now present.

Mr. LODGE. That is the rule always. Of course, you can not reconsider 10 votes by one motion to reconsider. You have to reconsider each vote.

Mr. OVERMAN. As I understand the Senator, then, if it is recommitted to the Committee of the Whole we will have to go over every reservation that has been adopted in Committee of the Whole.

Mr. LODGE. If it is recommitted, it has to start as with a new matter.

Mr. McCUMBER. Recommit it to the Committee on Foreign Relations, the Senator means, and not recommit it to the Senate.

The point I wanted to get at is whether, when it is recommitted by the Senate, we can amend any one of the reservations that had been previously adopted by the Senate. I would like the view definitely, if the Senator from Massachusetts will give it, as to whether that can be done or whether it will have to go back to the Committee on Foreign Relations.

Mr. LODGE. It certainly can be done by a recommitment to the Committee on Foreign Relations, and therefore it can be reached in the same way. It is only another step. If a majority of the Senate desire to reconsider and go over all the reservations again, the regular procedure is open to them to do it.

Mr. McCUMBER. But suppose the Senate does not wish to refer it back to the Committee on Foreign Relations and refuses to do so, can we then amend the reservations which we have adopted before that time?

Mr. LODGE. If there are a majority having the power to make changes in the reservations, they could recommit to the committee and bring it out of the committee and make any changes they want.

Mr. NELSON. Mr. President, will the Senator yield to me?

Mr. LODGE. Certainly.

Mr. NELSON. It seems to me the difficulties which have been suggested would vanish if we took the right course. The proper course is to do as we do in the case of a bill, not to vote upon what amendments we will put into the bill, but to take the bill and consider amendments. The proper way to get reservations before the Senate is to offer a resolution of ratification containing the reservations in detail, and then take up and consider those amendments to that resolution. Then we get the subject before us in the only orderly and proper way. With the resolution of ratification and the different amendments or reservations in it, we can then take them up one by one as we would the paragraphs of a bill. That is the only legitimate way to do it.

Mr. LODGE. That is precisely what I propose to do, but the resolution of ratification can not be introduced until the last thing. The procedure is uniform. You can not present your final resolution of ratification until you know what is going on it, and you can not know what is going on it until the Senate has dealt both with the amendments which have to go on the resolution of ratification and the reservations which have to go on it.

The practice hitherto has been to present reservations up to the last stage, and then introduce the resolution of ratification. I took this step, which I thought the rules allowed, on account of the gravity of the situation, and also to meet a point which has been suggested to me and which I think is a point of great importance, and that is that many Senators have stated on the floor of the Senate that they were voting against amendments because they preferred to have them covered by reservations. Now, suppose that a reservation desired by a Senator to cover an amendment against which he voted, preferring the reservation method, when it is offered in the Senate is not satisfactory, or suppose the reservation is defeated, then he is deprived of his opportunity to vote on an amendment, and still he does not get the reservation which he desired and which guided his first vote on the amendment.

I introduced this in the Committee of the Whole because I thought, in a question of this gravity, there ought not to be any narrowness of parliamentary action, but there ought to be every possible opportunity for the Senate to deal with these reservations one by one in Committee of the Whole. Then, in the Senate there is an opportunity to deal with them again before they are attached to the resolution of ratification, which is nothing but an enacting clause. My purpose was to give the greatest latitude possible for dealing with the reservations.

Mr. NORRIS. Will the Senator from Massachusetts yield to me?

Mr. LODGE. I yield.

Mr. NORRIS. I think I know the Senator's idea, and it seems to me he ought to make one point clearer. As he said, a great many Senators have voted against amendments on the theory that they would vote for reservations covering the same point. If the Senator's procedure is followed and he introduces his reservations in Committee of the Whole, if those Senators who are going to support those reservations, where they voted against amendments providing for similar things, find they are defeated in voting for the reservations, they will still have in the Senate an opportunity to vote for the amendments.

Mr. LODGE. Precisely. That is the point I made.

Mr. NORRIS. If you do not take that course, those Senators would be shut off from that right.

Mr. LODGE. I did not make it as clear as the Senator from Nebraska has done. That is the precise point. The whole purpose of my course here is not to restrict or cut off, but on the contrary to open the doors as wide as possible in our parliamentary procedure so that reservations can be dealt with in the most liberal way and in the manner in which, in my opinion, the gravity of the subject demands.

Mr. SWANSON. Will the Senator yield to me for a minute?

Mr. LODGE. I yield, with pleasure.

Mr. SWANSON. I understand this to be the contention of the Senator from Massachusetts: These amendments—reservations, as he calls them—are adopted in Committee of the Whole. They come to the Senate and are adopted. They are then included in the resolution of ratification really as amendments. Then, say, that resolution of ratification, including these amendments, is defeated. I think if the resolution of ratification is defeated, others are in order. I believe that is clear.

Mr. LODGE. Others are not in order until a reconsideration has taken place.

Mr. SWANSON. Conceding that now, though I know that will be debated later—

Mr. LODGE. Yes; we will debate it later.

Mr. SWANSON. The Senator insists the only way we can offer another resolution of ratification is to move to reconsider. That is his contention. What I want to get the Senator to make plain to the Senate is what is the effect of the resolution after a reconsideration, and in what status does that leave the treaty before the Senate?

Mr. LODGE. It brings back the treaty and the resolution of ratification.

Mr. SWANSON. It brings back the entire treaty?

Mr. LODGE. Certainly.

Mr. SWANSON. And the resolution of ratification?

Mr. LODGE. With the reservations and amendments, if there are any, attached to the resolution.

Mr. SWANSON. I would like to ask this question: If the resolution is reconsidered, what do you consider; only the resolution of ratification that was rejected?

Mr. LODGE. The Senator is too old a parliamentarian not to know that we can consider but one vote at a time. We may reconsider the vote by which the resolution was rejected, and that brings it back.

Mr. SWANSON. As it passed—

Mr. LODGE. Just as it left the Senate.

Mr. SWANSON. As it passed the Senate. Do I understand the Senator contends that that leaves open to the Senate every question of ratification on all the separate reservations?

Mr. LODGE. Certainly.

Mr. SWANSON. And all the other amendments?

Mr. LODGE. Of course it does, because it is open to a motion to recommit.

Mr. SWANSON. Without that motion, what would the status be?

Mr. LODGE. That I am not prepared to say, because the Senate has pursued a different course in regard to that on different occasions.

Mr. THOMAS and Mr. LENROOT addressed the Chair.

Mr. LODGE. My own judgment would be that in the Senate they could reconsider each vote on each reservation, if separate votes were taken.

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Colorado?

Mr. LODGE. I yield to the Senator from Wisconsin [Mr. LENROOT].

The VICE PRESIDENT. The Chair inquired if the Senator from Massachusetts would yield to the Senator from Colorado.

Mr. LODGE. I do.

Mr. THOMAS. I merely rose to suggest that it would be much better if we get to voting and leave the results in the hands of Providence.

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Wisconsin?

Mr. LODGE. I yield.

Mr. LENROOT. When the Senator replied to the Senator from Virginia that the reservations would be open to reconsideration he, of course, meant under the rules of the Senate.

Mr. LODGE. Of course.

Mr. LENROOT. And the situation would be that after that reconsideration it would be subject to any motion that would be in order before the vote was taken.

Mr. LODGE. That is absolutely my position. I have stated it two or three times.

Mr. SWANSON. The Senator says "under the rule." That is, the phrase "under the rule" is open to debate. That is a

very ambiguous statement as to how to consider it. I would like to ask the Senator if the resolution of ratification as it passed the Committee of the Whole and the Senate will be open to amendment after the vote of reconsideration has been passed?

Mr. LODGE. I do not think, under the rule, that it would be.

Mr. SWANSON. Then, if you vote to reconsider, the question would be whether the Senate would pass the resolution of ratification as in Committee of the Whole.

Mr. LODGE. Not at all. I have pointed out again and again that the road which is always followed when we wish to change a bill or a joint resolution is to recommit it, and then you have it all fresh from the beginning and can put on anything you want.

Mr. SWANSON. I understand the rule to recommit would take it back.

Mr. LODGE. That opens the whole treaty.

Mr. SWANSON. Suppose a motion to recommit were made, what then would be the situation? Could the resolution of ratification then be reconsidered and amended?

Mr. LODGE. After the motion to recommit is carried, of course, you can do anything with it.

Mr. SWANSON. Not recommit, but reconsider.

Mr. LODGE. After you have reconsidered, you have reconsidered that one vote. You have got to reconsider each of the others or else you have to resubmit it. That is what you have to do.

Mr. BRANDEGEE. Will the Senator yield to me for a moment?

Mr. LODGE. Certainly.

Mr. BRANDEGEE. In reply to the—

Mr. SMITH of Georgia. Will the Senator let me ask him a question?

Mr. BRANDEGEE. I believe the Senator yielded to me, and I am about to ask a question.

The Senator from Virginia [Mr. SWANSON] asked whether a resolution of ratification, having been defeated and then reconsidered, is amendable. I want to call his attention to that section of the rule which was read a few moments ago which says:

The decisions thus made shall be reduced to the form of a resolution of ratification—

Then follows matter immaterial to this question, and it then says:

At which stage no amendments shall be received, unless by unanimous consent.

I take it, then, Mr. President, that the defeated resolution of ratification having been reconsidered, being in the same position that it was before it was defeated, it is not amendable except by unanimous consent.

Mr. LODGE. However that may be, there is no question that you can proceed by recommitment to open the entire subject and put on any reservations you have the votes to put on.

Mr. SMITH of Georgia. Mr. President, I wish to ask the Senator from Massachusetts one question.

Mr. LODGE. I yield.

Mr. SMITH of Georgia. The question brings us really to the issue which is being considered, but not mentioned. If reconsideration takes place when the treaty, with the provisos, has not received a two-thirds majority, does the Senator from Massachusetts think it would then be in order to offer as a substitute for the resolution of ratification with the provisos a straight resolution of ratification without any provisos at all?

Mr. LODGE. Does the Senator mean after it comes back on reconsideration?

Mr. SMITH of Georgia. Yes.

Mr. LODGE. You have brought back the treaty with the provisos into the Senate?

Mr. SMITH of Georgia. Yes.

Mr. LODGE. I confess that form of substitution had not occurred to me. I am not prepared to say.

Mr. SMITH of Georgia. I think I have put my finger on the difficulty.

Mr. LODGE. I do not see how you can do it unless you reconsider the vote of the Senate.

Mr. SMITH of Georgia. Or unless it is referred to the Committee of the Whole.

Mr. LODGE. By recommitment.

Mr. UNDERWOOD and Mr. BORAH addressed the Chair.

Mr. LODGE. I yield to the Senator from Idaho. He rose first.

Mr. BORAH. I was just going to say that we can not forestall the decision of the Chair nor of the Senate by discussing this proposition at this time.

Mr. LODGE. Of course we can not.

Mr. BORAH. I do not see anything particular to be gained by it. If we are going to take up and discuss wholly immaterial

questions in the Senate that can not bind anybody for the future, I think I may as well go ahead with my amendment.

Mr. SWANSON. Mr. President—

The VICE PRESIDENT. Does the Senator from Massachusetts yield to the Senator from Virginia?

Mr. LODGE. I should like my motion disposed of.

Mr. SWANSON. Mr. President, it seems to me that this is a material question.

Mr. LODGE. We have talked this matter up and talked it down, if I may say so to the Senator from Virginia, although the question is not now before the Senate.

Mr. SWANSON. Before the motion comes to a vote, I desire to say that I understand the Senator is pursuing an unusual course, in that he offers amendments to the resolution of ratification, which is not as yet before the Senate. I understand the usual course has been to include reservations in the resolution of ratification. The Senator is really making them amendments to the treaty. Why does he do that?

Mr. LODGE. I am not doing it.

Mr. SWANSON. Perhaps the Senator has not done it, but that is the purpose.

Mr. LODGE. No; it is not the purpose.

Mr. SWANSON. Then why does the Senator want the reservations considered now?

Mr. LODGE. I can not attach the reservations to the resolution of ratification as in Committee of the Whole; that is impossible; there is no resolution of ratification here.

Mr. SWANSON. But the Senator pursues the unusual course of treating the reservations as amendments to be included in the resolution of ratification which is not here. Why?

Mr. LODGE. I do not propose them as amendments; I propose them specifically as reservations. There is no use in continuing this character of discussion.

Mr. SWANSON. The Senator proposes them as amendments to the resolution of ratification which has not been offered. Why does he do that? If they are adopted and included in the resolution of ratification, and if that resolution should fail, and a motion to reconsider is made, according to what the Senator from Connecticut [Mr. BRANDEGEE] insists, if the motion to reconsider is adopted, the question simply comes up whether the treaty shall be ratified with the reservations or whether it shall be rejected. Senators admit the only way they can avoid that is to move to recommit to the committee.

Mr. LODGE. It does not make a particle of difference about that—

Mr. SWANSON. If it is recommitted to the committee it means a long delay. All I ask is that this matter may come before the Senate and that the will of the Senate may have an opportunity to express itself.

Mr. LODGE. That is what I am after. Now, let me say to the Senator from Virginia that if after the adoption of these reservations the resolution of ratification should fail, he may look for a very long delay indeed; it will be the delay of death.

Mr. SWANSON. I think that is the procedure the Senator is trying to follow.

Mr. LODGE. If these reservations are put on the treaty, it will be ratified; and it will not be ratified, in my judgment, in any other way.

Mr. BRANDEGEE and Mr. UNDERWOOD addressed the Chair.

The VICE PRESIDENT. The Senator from Alabama.

Mr. UNDERWOOD. Mr. President, the Senator from Idaho [Mr. BORAH] a moment ago made a very pertinent suggestion that we were discussing a question that had not arisen; but it is a question that is going to arise, and after the declarations coming from the Senators in charge of the pending treaty as to what the rules mean and what they are, I am not willing to let those statements go into the Record without contradiction and allow those who are not familiar with the Senate rules to take that as the decision of the Senate. Of course, I realize that ultimately the presiding officer of the Senate will be called on to decide this question, and then the Senate will pass judgment on his decision; but in order that the Record may at least show my viewpoint in reference to the matter, and I think the viewpoint of some of my colleagues, I propose to state what it is.

In the first place, an amendment can be made to the treaty by a majority vote of the Senate, if the majority so desires. Up to the present time no amendment has been adopted. When amendments have all been disposed of either by acceptance or rejection, it is then the duty of the Senators in charge of the matter to propose a resolution of ratification voicing the sentiment of the Senate, as is suggested by the amendments according as they are adopted or rejected. That is all the rules provide for. A custom has grown up in the Senate that has gone so far as to become a part of the rules of the Senate that a reso-

lution of ratification may not only reflect the vote of the Senate on amendments but it may reflect the viewpoint of the Senate by way of reservations. However, I never heard of a reservation being proposed in the Senate of the United States as a reservation—not as an interpretation—that was not included in the resolution of ratification. If it is a part of the resolution of ratification—and it must be to be effective—it can not be adopted separately from the resolution of ratification. Before a reservation is in order in the Senate—whether it be in Committee of the Whole or in the Senate proper I am not concerned about—the resolution of ratification must be here; it must be pending before the Senate. We can not any more act on an amendment to a proposition that is not before the Senate than we can act on the proposition itself that is not before the Senate.

If the Senator from Massachusetts proposes to offer the so-called reservations as amendments to the treaty, of course he is in order; but if he proposes to offer them as reservations that ultimately are included in the resolution of ratification, then the resolution of ratification must be pending; it must be the pending question before the Senate.

Mr. BRANDEGEE. Mr. President—

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from Connecticut?

Mr. UNDERWOOD. I yield.

Mr. BRANDEGEE. On what theory does the Senator from Alabama think that a reservation can not be adopted except the resolution of ratification is drawn in form and is before the Senate at the same time, when the rule specifically provides that amendments must be adopted before the resolution is proposed?

Mr. UNDERWOOD. I have just said that if these are amendments to the treaty, of course as amendments they are in order; I concede that; but if they are reservations they are reservations to what?

Mr. LODGE. Mr. President, if I may—

Mr. UNDERWOOD. I yield to the Senator from Massachusetts. I have the floor, I believe.

Mr. LODGE. I think not. I yielded to the Senator from Alabama.

The VICE PRESIDENT. The Senator from Alabama has the floor.

Mr. LODGE. If the Senator from Alabama has the floor, I will wait until he shall have concluded.

Mr. UNDERWOOD. I shall be glad to yield to the Senator from Massachusetts.

Mr. LODGE. I desire to call the attention of the Senator from Alabama to the Danish treaty, one of the last treaties ratified. To that treaty reservations were adopted, and then Senator Stone offered a resolution of ratification.

Mr. UNDERWOOD. But that was by unanimous consent.

Mr. LODGE. Oh, no. The unanimous consent was in regard to taking action on the treaty on that day.

Mr. UNDERWOOD. Then there was no objection, I may say, which was equivalent to unanimous consent.

Mr. LODGE. But Senator Stone held back the resolution of ratification.

Mr. UNDERWOOD. I was in the Senate when that resolution was adopted. There was no contest about it.

Mr. LODGE. Has the Senator from Alabama read the executive journal made up at that time? If not, I have it here.

Mr. UNDERWOOD. No; but I know there was no contest in the Senate and no Senator then raised the question. But, Mr. President, I do not care what precedent may be cited growing out of that instance, because that treaty went through as a mere matter of form. There were no issues raised, as I happen to know, no matter what the executive journal may recite, as I was present in the Senate when it was ratified. The real issue is as to whether reservations are a part of the resolution of ratification. If they are they are either a part of it now as pending before this body or are proposed to be amendments to it. The contention I make is not whether they can be considered in Committee of the Whole or in the Senate, but it is that they can not be considered at all if they are proposed as reservations to the final resolution of ratification until the resolution of ratification is pending.

The Senator says the last thing to be done is to offer the resolution of ratification; that resolution is the last question we shall act on after amendments have been disposed of; but the Senator can not contend that after he offers the resolution of ratification other Senators can not propose amendments to it so long as we have a right to vote on it. Therefore, amendments may be added to it even after the Senator has perfected it to suit himself. Other Senators will have the privilege at

least of proposing amendments, even if they can not obtain the votes to accomplish the result they desire.

So I contend that if we have closed the hour of offering amendments, if no Senator desires to offer further amendments, then the business before the Senate is the resolution of ratification and such amendments to it by way of reservation or otherwise as may be offered. That is the only way the Senate can in an orderly manner transact its business, and, as the Senator from Minnesota [Mr. NELSON] suggested a moment ago, it is the correct way for us to transact our business.

Mr. LODGE. Mr. President, let me ask the Senator, does he mean to say that a resolution of ratification can be offered while the treaty is being considered in Committee of the Whole?

Mr. UNDERWOOD. I do not think that the resolution of ratification could be offered; I merely said that I had no objection to the Senator offering reservations as amendments to the treaty.

Mr. SWANSON. Mr. President, will the Senator from Alabama permit me a moment?

Mr. UNDERWOOD. I yield.

Mr. SWANSON. If the resolution of ratification can not be offered in Committee of the Whole, how can amendments to the resolution of ratification be offered in Committee of the Whole?

Mr. LODGE. They are always in order before the resolution of ratification is presented.

Mr. SWANSON. No. The Senator says the resolution of ratification can not be offered in Committee of the Whole, and yet he says amendments to the resolution of ratification can be offered in Committee of the Whole. That is the contention.

Mr. LODGE. Oh, no.

Mr. SWANSON. That is the position the Senator occupies.

Mr. LODGE. I never stated anything of the kind; there is no use of the Senator misstating my position.

Mr. SWANSON. Well, let me state it again.

Mr. LODGE. Oh, no; do not let us take any more time in this discussion.

Mr. SWANSON. The reservations are amendments to the resolution of ratification, and the Senator says that the original resolution can not be offered in Committee of the Whole, but amendments to that resolution can be offered.

Mr. BRANDEGEE. That is because the rule orders it so.

Mr. SWANSON. The rule does not order it so. Let us see what the situation is, for we may just as well face it. Senators are confronted with a rule which says that the resolution of ratification shall contain the amendments adopted in Committee of the Whole or in the Senate. In order to avoid that rule the Senator, in Committee of the Whole, brings in reservations as amendments to the resolution of ratification. What is the effect of that?

Mr. NORRIS. Mr. President, will the Senator from Alabama permit me to ask a question of the Senator from Virginia?

Mr. UNDERWOOD. I yield.

The VICE PRESIDENT. The Senator from Alabama has the floor.

Mr. NORRIS. The Senator from Alabama has yielded to me. I wish to suggest to the Senator from Virginia that the Senator from Massachusetts has not offered any amendments to the resolution of ratification. That is where I think the Senator from Virginia misunderstands the situation.

Mr. SWANSON. I do not misunderstand the matter at all. The Senator offered the reservations to be adopted now and to be accepted as amendments to the original resolution of ratification—

Mr. LODGE. Not as amendments, but as reservations.

Mr. SWANSON. To be included in the resolution of ratification.

Mr. LODGE. Mr. President, the Senator from Virginia can misstate my position faster than I can state it. I have stated it over and over again, but the Senator keeps misstating it, and it is a mere waste of the time of the Senate to continue the discussion.

Mr. SWANSON. Let us see what the purpose is. All this contention would not be without a material purpose. The Senator from Massachusetts endeavors, by a majority vote, to make the Senate either reject or accept what he brings here or force a motion to reconsider. The Senator from Connecticut has said that if the motion to reconsider is agreed to, the question recurs, Shall the resolution of ratification as amended be accepted or rejected? It seems to me if we want to get an expression of the will of the Senate as to what, in their judgment, should be put in the resolution of ratification, the proper course would be to secure a unanimous-consent agreement, in view of the rule, that if one resolution of ratification is rejected another one

shall be in order, or, in case of a motion to reconsider, that the resolution shall be subject to amendment.

Mr. UNDERWOOD. Mr. President, if the Senator from Virginia will pardon me, while I dislike to interrupt him, I should prefer to proceed with my remarks.

Mr. SWANSON. Very well.

Mr. UNDERWOOD. Mr. President, I desire to make clear my position. If the Senator from Massachusetts promises reservations here that are ultimately to become a part of the resolution of ratification, I desire to make a point of order that they are not in order until the resolution of ratification is before the Senate. I am not concerned whether he offers the reservations in Committee of the Whole or in the Senate, but until the original resolution of ratification of which it is proposed they shall become a part is before this body the reservations are not in order.

Aside from that, there has been much argument here as to what would happen if the resolution of ratification of the Senator from Massachusetts should be voted down.

I recognize that what the Senator from Idaho [Mr. BORAH] said awhile ago is true, that we are discussing a problem before it arises; but, as I expect to vote against the resolution of ratification as offered by the Senator from Massachusetts, and hope that it may be defeated, I want the Record to show what my interpretation of the parliamentary situation will be when that happens.

I understood from the Senator's statement awhile ago that he takes the position that if this resolution of ratification ultimately is defeated the treaty is dead, or action on the treaty is inoperative, unless a motion to reconsider is made in the Senate or in the Committee of the Whole.

Mr. President, I do not think there is any parliamentary law, nor is there any common sense, to sustain that proposition. The proposition before the Senate is the ratification of the treaty of peace with Germany. In my understanding, there are but three ways of disposing of that in the Senate: One is for the Senate by a majority vote to refer it and thus temporarily dispose of it. Another, under the rules, is to indefinitely postpone it, which, under the rules of the Senate, requires a two-thirds vote; and a vote of that kind would kill the treaty, and that would be the end of it. The other disposition is for the President to withdraw the treaty from the Senate. Without the happening of one of those events, unquestionably the treaty is before the Senate continuously for action.

I think the position that the Senator from Massachusetts has taken with reference to the defeat of a resolution of ratification is absolutely unsound. What difference is there between defeating a resolution of ratification by a majority vote and defeating it by the vote of one more than a third of the Senate? Suppose it were entirely a question of a majority vote, Mr. President, to make the matter clear. Suppose it did not require a two-thirds vote to ratify this treaty. Suppose it merely required a majority vote, and the Senator from Massachusetts had jockeyed his resolution of ratification through the various hurdles of amendments and reservations to the point where it was ready to take the final jump, and when that time came, and he demanded a roll call on his resolution of ratification, it did not command a majority vote of the Senate: Would anybody say, because the Senator's resolution of ratification was defeated, that that defeated the treaty of peace with Germany? Why, I say there is no parliamentary precedent in the history of the ages that would sustain a position of that kind. More than that, it can not be weighed in the balance of the scales of common sense and be sustained.

The purpose of this great treaty is to enable these nations to establish the peace conditions of the world; and to say that because a resolution proposed by one faction of the Senate of the United States could not command a majority vote of this body, therefore the treaty must fail, is not common sense.

If that is true as to a majority vote, why is it not equally true as to a two-thirds vote? There is no difference between its status on a majority vote and its status on a two-thirds vote except the difference which the Constitution of the United States itself prescribes, and that is that a resolution of ratification must command a two-thirds vote. In all other particulars, or most other particulars, it must command a majority vote. Therefore it fails when it does not get a majority vote; but here it must command a two-thirds vote, and one more vote than a third of the Senate will reject it. Now, what does that do? It rejects it just in the way that you would reject any other resolution by a majority vote of the Senate. The resolution having been rejected, it goes to the waste-paper basket; and the Senate, through its membership, is entitled to propose some other procedure to dispose of the treaty of peace. That is all there is to the proposition.

Mr. LODGE. Mr. President, if the Senator will allow me to make a suggestion—

Mr. UNDERWOOD. Surely.

Mr. LODGE. The Constitution says nothing about a majority vote.

Mr. UNDERWOOD. Oh, undoubtedly; but it does about a two-thirds vote.

Mr. LODGE. One moment. That is found in the rule, and at one time the Senate had a rule under which a two-thirds vote was required for every amendment. It is a mere matter of the rules of the Senate. The majority part of it has nothing to do with the Constitution.

Mr. UNDERWOOD. To be sure. The Constitution prescribes a majority vote for the passage of bills and other resolutions—that is what I was referring to, and not to the treaty—and I was simply saying that because the Constitution, in reference to bills and other resolutions, requires a majority vote in one place, and here it requires a two-thirds vote, it does not change the parliamentary status of the situation. Unquestionably it can not be anything but the rejection of the resolution offered by the Senator from Massachusetts.

Mr. President, I have not occupied the time of the Senate in giving my views in reference to this treaty. I have been so concerned that the peace of the world might be consummated, and that the conclusion of this war might be reached at an early date, that I preferred through these months to sit in silence rather than further to delay action on the consummation of this treaty; but the time has come when the people who believe that the most important question before this Nation is the consummation of peace must determine on what action they are going to take.

I do not suppose there is a man in the Senate of the United States who, if he had had the power to write this treaty in the beginning, would have written it in the exact form in which we find it before the Senate. More than that, I do not suppose for one minute that if the President of the United States had had full power to write this treaty he would have written a treaty such as is now pending before us in all its provisions. Unquestionably this is a document of compromises—the compromises of 26 nations sitting at the peace table trying to work out their differences and solve their difficulties in an instrument that might bring about the peace of the world. The primary question before the Senate is as to whether or not we shall accept this treaty, though we may differ from it in part, and consummate the peace of our country or whether we shall reject it and send it back into the turmoils of European politics.

Of course I am not now going into the question of discussing how far we might make reservations or interpretations that will endanger the peace of the world, or how far we might go and further endanger the peace of the world and the rejection of this treaty.

I do not think that is necessary from my standpoint. I am not going to take any chances about it at all. If this treaty does not work out all right in two years we can repudiate it, and I think that is sufficient to protect my country from any dangers that might arise out of it; but I think the straight road to the conclusion of peace is the ratification of this treaty without amendment and without reservation.

Therefore I am not willing to vote for any amendment or reservation, or any resolution of ratification with reservations in it, until the opportunity has been afforded to the people of the United States to take a direct vote on a resolution of ratification without amendments or reservations—an unconditional vote of ratification. If that happens, and it can not command the necessary two-thirds, then I realize that some compromise must be made; but I say to those men who differ with me—and I am not criticizing them; I am always glad to recognize the right of the other man to maintain his own position, as I ask that I may have the right to maintain mine—there are just two votes on this treaty of peace. One is absolutely in the hands of the President of the United States and the other is in the hands of the Senate of the United States. It is idle to say that a treaty of peace can be consummated until those two votes vote together, until those two minds concur in a final agreement.

The President of the United States has made this treaty. He has sent assurance to foreign powers that it will be ratified by the Senate. He has announced to the people of the United States that he was opposed to any amendment or any reservation that amounted to an amendment; and why? Because he said that if it was proposed it endangered the final ratification of the treaty of peace; and that danger has grown since he uttered it, because when he first announced the proposition the treaty had not become a fact. It had not been ratified by

the European powers. To-day this treaty is a living entity. Of the five great powers that are required to ratify it first, four have accepted it. It is the law of the world. It is a question as to whether we are going to be a part of it or stand out of it and make a separate treaty of peace with Germany.

With vital amendments to this treaty, affecting the internal affairs of England, France, Italy, or Japan, how could we expect them to accept amendments that modified or changed the treaty in reference to their own affairs? Yet such amendments have been proposed on the floor of the Senate.

If they had been adopted, Mr. President, I think the Government of the United States would have found itself, so far as this treaty is concerned, like Mahomet's coffin, between air and earth, suspended, with no resting place, no parliamentary status, no position in the world as to whether we were at peace or at war with Germany, an indefinite suspension, that might have wrought wreck and ruin to our internal affairs and disaster to our people.

I think that we who desire to have the immediate ratification of this treaty of peace, to sustain the hands of the President of the United States in his efforts to write this treaty and bring about the peace of the world, have but one course open to us, and if that is true, and we are men, we are going to take that course, regardless of what criticism may fall on our heads. More than that, I doubt whether there will be much criticism, because I think the common sense of the American people is with us. That course is that we should demand before this treaty is ratified in any other way that we have a right to vote on unconditional ratification. If that is rejected, then, of course, the President must recognize that the coordinate body in treaty making will not agree with him, and compromises must be made. But he is entitled to an honest vote, a clean record, as to whether the Senate accepts or rejects his position. I take it—and I believe it is true—that there are 40 men on the floor of the Senate who have the courage of their convictions.

Mr. THOMAS. Does not the Senator concede to the remaining Senators the same courage?

Mr. UNDERWOOD. Undoubtedly. I just said so. There are 40 men on the floor of the Senate who have the courage of their convictions, in my judgment, to sustain the position that I have just announced. I, of course, recognize that those who differ with us have equal courage and an equal right.

Mr. KING. Mr. President—

The VICE PRESIDENT. Does the Senator from Alabama yield to the Senator from Utah?

Mr. UNDERWOOD. I yield.

Mr. KING. Why does the Senator say, as I understood him, that the adoption of any of those reservations would necessitate the resubmission of the treaty to Germany and compel a renegotiation of the treaty with Germany? Does not the Senator think that there may be reservations and, indeed, amendments to the league, which would not occasion the resubmission of the treaty to Germany?

Mr. UNDERWOOD. I do not think so. Not any that I have seen around here. But I do not think that is very material, because most of those that have been offered undoubtedly would have required a resubmission.

Mr. SMITH of Georgia. Mr. President, I desire to ask the Senator a question, but I will have to preface my question with a statement. The difficulty with the position of the Senator seems to be that the resolution of ratification has to come in the Senate after the amendments have been perfected; and, in the Committee of the Whole, unless it was by unanimous consent, a resolution of ratification could not be considered. Could not this entire difficulty be obviated by unanimous consent? Could we not obtain unanimous consent to offer a resolution of ratification in Committee of the Whole, to which any reservations that Senators might desire could be also offered, and for which also could be offered as a substitute a straight resolution of ratification, without any reservations? If such a unanimous-consent agreement could be made, would it not speed our deliberations?

Mr. UNDERWOOD. I think not, because under the rules of the Senate and the provision of the Constitution, a final resolution of ratification must receive a two-thirds vote, and there is no way to test the sentiment that I have spoken of by offering a substitute for somebody else's reservation. There is but one way in which it can be done, and that is to propose it as a resolution of ratification itself, and see whether or not it can command a two-thirds vote. I think that is the only way out of it.

Mr. SMITH of Georgia. If we were, by unanimous consent, considering a resolution of ratification in Committee of the

Whole, could it not be proposed in Committee of the Whole, and could not the status of the Senate with reference to such a resolution there be tested?

Mr. UNDERWOOD. As I said a while ago, I have no objection to considering the resolution of ratification, if you want to do it by unanimous consent, either in Committee of the Whole or in the Senate. That is immaterial. But whether it is in Committee of the Whole or in the Senate, I want the rules of orderly procedure conformed to and carried out, in order that we may know at all times our status and our rights in these matters.

I think, Mr. President, that we might as well recognize that we are up against this proposition, in my judgment, that the Senator from Massachusetts and those who agree with him will ultimately propose a resolution of ratification that meets their conclusions, which in all human probability will not command a two-thirds vote in the Senate. When that is defeated, undoubtedly a resolution of ratification without reservations, unless some other resolution of ratification preceded it, will be offered. As to whether that can command a two-thirds vote I do not know and I do not predict. If it does, the treaty is ratified. If it does not, then the treaty will still be before the Senate, and we will have reached a status where those who believe in unconditional ratification will know that we can not have our way, and those who are proposing drastic amendments or reservations will know that they can not have their way, and then the question as to whether the Senate and the President can reach a compromise by which the treaty can be agreed to, that will be acknowledged by the European powers, or whether it will be necessary to finally reject it and open further negotiations with Germany, can be considered and voted on. But it is simply idle to waste days and hours, weeks and months, in the continuation of this debate about matters that we know must come to this final conclusion, this final test of a vote on these two questions.

I therefore think that the wise thing for the Senate to do is not to disturb the parliamentary situation, which is a question for the Chair to decide, but is to limit this debate and bring the resolution of the Senator from Massachusetts to a vote. If he wins, he has accomplished his object. If he loses, then the other issue comes before the Senate for its decision. We will make progress, and we will meet the wishes of the country.

Mr. LODGE. Mr. President, if the Senator wants to make progress, why does he not ask unanimous consent to take a vote on an unconditional ratification of the treaty now?

Mr. UNDERWOOD. I will.

Mr. LODGE. All right.

Mr. UNDERWOOD. Mr. President, I ask unanimous consent—

Mr. HITCHCOCK. That can not be done in Committee of the Whole. It must be considered in the Senate.

Mr. LODGE. Oh, yes; by unanimous consent we can do anything. [Laughter in the galleries.]

The VICE PRESIDENT. There will be order in the galleries. This violation of the rules will not be allowed to continue. The occupants of the galleries have been notified to keep quiet, and I call on the doorkeepers to remove the men who do not obey the rules of the Senate. The doorkeepers know who they are.

Mr. UNDERWOOD. Mr. President, I am not assuming to lead on this side, because this side has been ably and well represented by the distinguished Senator from Nebraska [Mr. HITCHCOCK], and I make no proposal coming from this side that does not meet with his approval. I recognize that a resolution of unconditional ratification coming at this time does not come with the force that it would have after the resolution of the Senator from Massachusetts is defeated.

Mr. LODGE. Then I understand the Senator objects?

Mr. UNDERWOOD. No; I do not. I am not going to object. If the Senator will bear his soul in patience, I will give Senators on the other side a chance to object. I realize that such a request will not be as forceful as it would be if coming after the Senator's resolution is defeated. But I also realize that this is no child's play; that this is no hour in which we can stand on technicalities. The great duty we owe to this country is to act on this treaty one way or the other, solve the issue, and bring the question before us to a vote.

Therefore, Mr. President, accepting the proposition of the Senator from Massachusetts, I ask unanimous consent that the leader on this side of the Chamber, the Senator from Nebraska [Mr. HITCHCOCK], may have unanimous consent to propose at this time a resolution of unconditional ratification for the consideration of the Senate.

The VICE PRESIDENT. Is there any objection?

Mr. HITCHCOCK. Mr. President, I have been waiting to propose a unanimous-consent agreement myself, and I shall carry out the purpose I have had.

The offer which is made by the Senator from Massachusetts [Mr. LODGE] is recognized to be extraordinary. All the precedents of the Senate indicate that reservations are not considered in Committee of the Whole, but are considered in the Senate. So far as I know, there has been, perhaps, no exception, and certainly there have been few, in which the Committee of the Whole has done anything more than read the treaty and consider proposed amendments to it. The rules require that when that proceeding has been finished by the Senate as in Committee of the Whole, the Committee of the Whole reports the treaty to the Senate, and all that the Senate does when it is so reported is to consider a resolution of ratification.

There are many precedents for saying that the Senate is at perfect liberty, while considering a resolution of ratification, to consider reservations, interpretations, and qualifications, and it seems to me that that is the orderly proceeding to take in this case. But if the Senator from Massachusetts fears that some advantage may be taken or some advantage lost by considering it in that way, I suggest a unanimous-consent agreement in advance, so that he may know, and all Senators may know, that the Senate will be just as free, sitting as the Senate, to consider a resolution of ratification with reservations, with qualifications, and with interpretations, as it might be to consider reservations or qualifications or interpretations in Committee of the Whole.

The unanimous-consent agreement which I suggest is this, that it shall be in order, when the Committee of the Whole reports the treaty to the Senate, to offer resolution of ratification with or without reservations, interpretations, or qualifications, and any Senator may demand a separate vote on any reservation, interpretation, or qualification. Any pending resolution and any pending reservation, interpretation, or qualification, shall be open to amendment or substitute.

Mr. LODGE. There is no need of unanimous consent. That is the rule now. All that can be done without unanimous consent. Of course, you can offer a substitute for anything before the final vote is taken.

Mr. HITCHCOCK. Then, if that is perfectly understood, there certainly can be no reason why the Senate should not at this time pursue the ordinary course as in Committee of the Whole and report the treaty to the Senate. Therefore, I move that the Committee of the Whole now report the treaty to the Senate.

Mr. LODGE. That is a wholly different proposition. Is the Senator ready to vote now on the treaty without any amendment or reservation? That is the only question.

Mr. HITCHCOCK. I am ready to vote on it as soon as we get into the Senate.

Mr. LODGE. No; is the Senator ready to vote now on it without any reservations or conditions attached?

Mr. HITCHCOCK. Just as soon as it is reported to the Senate in an orderly way.

Mr. LODGE. No unanimous consent will take it out of the Committee of the Whole. The Senator need not worry about it. The unanimous consent is a plain proposition to vote on it unconditionally. Is that the Senator's request? If it is, I will not object to it, but I am not going to agree to a lot of stuff about the rules.

Mr. HITCHCOCK. I have made this suggestion for unanimous consent in perfect good faith. There is no advantage to be taken on either side in conducting this matter in the ordinary way. The Senator from Massachusetts is endeavoring to do it in an extraordinary and unusual way, contrary to the precedents of the Senate, and when I suggested to him a few moments ago that it should be taken up in the Senate by unanimous consent, the Senator from Massachusetts intimated he feared some advantage would be taken of the situation.

Mr. CURTIS. Mr. President, is not the proposition submitted by the Senator from Nebraska exactly the same proposition as that submitted by the Senator from Alabama?

Mr. UNDERWOOD. I will say that it is. I hope the Senator from Nebraska will allow the Senate to pass on the question of the unexpected offer coming from the Senator from Massachusetts. Of course, it is unusual to pass on a resolution of ratification in Committee of the Whole, but it undoubtedly can be done by unanimous consent.

There are many of us who for months have sat here to sustain the President and demand an honest vote on the question of whether he should be sustained. We thought we might have to battle to get that position. There may be some technical advantage in postponing that vote, but I think the country is entitled to vote as to whether we will ratify

unconditionally. Senators are entitled to take a position before the country for unconditional ratification or not, and when that vote is taken it will clear the atmosphere, I think, to a large extent. I sincerely hope the Senator from Nebraska will allow us to take that vote on his own resolution of ratification.

Mr. HITCHCOCK. I should prefer to have my unanimous-consent agreement assented to by the Senator from Massachusetts, but failing that, I move that the Senate advise and consent to the ratification of the treaty of peace now pending before the Senate, and on that I demand the yeas and nays.

Mr. LODGE. The Senator should ask unanimous consent. Of course, it is out of order without unanimous consent.

Mr. HITCHCOCK. I ask unanimous consent.

Mr. LODGE. I make no objection to unanimous consent.

The VICE PRESIDENT. Is there objection?

Mr. LENROOT. Reserving the right to object, it is understood that if the treaty fails of ratification by that vote, it leaves it exactly where it was before the vote was taken?

Mr. UNDERWOOD. Undoubtedly.

Mr. McCUMBER. I hope we will all agree to that.

Mr. HITCHCOCK. Do I get unanimous consent?

Mr. MCCORMICK. Reserving the right to object, what was the inquiry of the Senator from Wisconsin [Mr. LENROOT] and what was the reply thereto, and is its effect binding and conclusive?

Mr. LENROOT. To make it clear, I will ask the Senator from Nebraska [Mr. HITCHCOCK] if he will not incorporate in his unanimous-consent agreement that in case of failure to ratify the treaty shall be at the same stage as if the vote had not been taken.

Mr. McCUMBER. That is all right.

Mr. HITCHCOCK. I see no objection to that. That is my theory of this matter. I think if the resolution of ratification fails to receive a two-thirds vote it leaves the treaty right where it has been.

The VICE PRESIDENT. The Secretary will state the proposed unanimous-consent agreement.

The SECRETARY. The Senator from Nebraska [Mr. HITCHCOCK] asks unanimous consent that the Senate may proceed at once to vote upon the following resolution:

Resolved, That the Senate advise and consent to the ratification of the treaty of peace with Germany signed at Versailles, France, June 28, 1919.

The VICE PRESIDENT. There should be included the words "Provided, That if the treaty shall fail of ratification it shall occupy the same position in the proceedings of the Senate that it occupied before the vote was taken."

Mr. HITCHCOCK. I assent to that. Has unanimous consent been given?

The VICE PRESIDENT. It has not.

Mr. FALL. It has not.

The VICE PRESIDENT. Is there objection?

Mr. FALL. Mr. President, of course, I have my views upon this entire subject, and some of them have been expressed, as vigorously as I knew how, prior to this time. I do not believe that this subject can be treated in the way that is now proposed. I believe that if the vote is taken as proposed, and two-thirds do not vote for the ratification resolution, the treaty is dead forever, and I can not consent, by my silence, to any other construction.

The VICE PRESIDENT. That is an objection, then?

Mr. FALL. I think that we all are considerably at sea in the matter of the treatment of the treaty and the rules applying, and if I may trespass upon the time of the Senate for a few moments, I will express my views upon the subject.

In the matter of the treaty, while it is treated by this body in a legislative way, the Senate itself is taking part in the passage of executive duties in advising and consenting to the ratification of the treaty. It is not a legislative act in that sense. The rules are perfectly clear as to the procedure which should be followed. The general rules or the general parliamentary rules do not apply in the treatment of this subject.

The rule is to me perfectly plain. The rule provides that we shall consider the treaty in the Committee of the Whole, and amendments; that we shall then go into the Senate, and that the only motion there is, Shall the action of the Committee of the Whole be concurred in or not?

That is the rule when we get into the Senate. If concurred in, the resolution of ratification is then formed, and you are not amending a resolution of ratification. You are now preparing a resolution of ratification by amendments, if you adopt them, whether you call them reservations or not. In the parliamentary treatment of these reservations, irrespective of their diplomatic effect, if the Senators can see anything in them, irrespective of how they may be treated diplomatically, in

parliamentary treatment or legislative treatment in this body, they are considered exactly as amendments; and upon the action of the Committee of the Whole in adopting the amendments, whether you call them reservations or whether you call them amendments, depends the form of the resolution of ratification.

No action has been taken upon the pending amendments whatsoever, or at least unanimous consent is asked in Committee of the Whole, which is entirely out of order, unknown to the rules at all, unless it were submitted in the form of the formation of a resolution of ratification. If the Senator were to offer it as a form of resolution of ratification to be reported and adopted by the Senate, he might have some ground there for a motion or for a unanimous consent for such request, but to have a vote upon what he chooses to introduce here now in Committee of the Whole as a resolution of ratification or a reservation and if that fails of passage then we are back in the same position we are now occupying is, to my mind, extremely ridiculous. We are playing with the entire subject.

If Senators desire to go on record for the unreserved ratification of the treaty, if they desire to express themselves, let them rise here and so express themselves. It will go into the RECORD. There is no necessity for violating all the rules of the Senate in an endeavor to do the thing in this indirect way. I have no objection whatsoever to a vote being taken, but I want it understood distinctly that I do object to any unanimous consent which would put the matter back in the same position as it was before the vote is taken. If you support it, and if you vote upon your resolution of ratification simply to test the matter, I think you would be exactly where you are by your reservations now. It is child's play; it is unknown to the rules.

The Senate is in Committee of the Whole. If you are in good faith, if Senators on the other side of the Chamber are in good faith, then move that the committee now rise, go into the Senate, and report the resolution of ratification without any reservations, and that you will then go back into the Committee of the Whole for treatment of this matter exactly as you have it.

I have no objection to your taking a test vote for the benefit of posterity. That is all it is. I have no possible objection to that, but I do object to undertaking to tie the Senate in any manner whatsoever to any such doctrine as has been announced in this request.

Mr. SMOOT. May I ask the Senator a question?

Mr. UNDERWOOD. Do I understand the request is objected to?

The VICE PRESIDENT. It is.

Mr. FALL. As formed, it is objected to.

Mr. UNDERWOOD. In what form would the Senator consent to its going through?

Mr. FALL. What is the Senator's purpose, to stay in Committee of the Whole or to go into the Senate?

Mr. UNDERWOOD. So far as I am concerned, my only purpose is to have an unqualified vote on the ratification of the treaty, without amendment or reservation.

Mr. FALL. And that vote can only be taken in the Senate.

Mr. UNDERWOOD. It can be taken anywhere by unanimous consent.

Mr. FALL. No; it can not be.

Mr. UNDERWOOD. It can be taken anywhere by unanimous consent, but I am willing—

Mr. FALL. It can be taken, of course, but it would have no effect if taken in Committee of the Whole, but it will have effect if we go into the Senate. If the Senator will move to go into the Senate, I shall make no objection.

Mr. UNDERWOOD. I ask to amend the request for unanimous consent so as to read "in the Senate." We can go into the Senate by unanimous consent. Of course, we will agree to come out if the motion is not agreed to in the Senate.

The VICE PRESIDENT. Is there objection to that request?

Mr. FALL. In not insisting upon my objection to the request for unanimous consent I am for the first time since I have been a Member of this body knowingly and willfully stultifying myself as a Senator.

Mr. LENROOT. Mr. President, I rise to a parliamentary inquiry. I ask that the unanimous-consent request as modified be now stated.

The VICE PRESIDENT. The Secretary will state it.

The Secretary read as follows:

It is agreed by unanimous consent that the Senate shall immediately pass to the parliamentary stage of the Senate and will vote therein upon the following resolution:

Resolved, That the Senate advise and consent to the ratification of the treaty of peace with Germany, signed at Versailles, France, June 28, 1919.

Mr. LODGE. Mr. President, there should be inserted in the resolution the words "two-thirds of the Senators present and voting concurring therein."

Mr. UNDERWOOD. Undoubtedly that should be done.
The VICE PRESIDENT. The Chair will decide that it is not a thing the Chair can do.

Mr. LODGE. I am only giving the universal form of ratification resolutions; that is all.

The VICE PRESIDENT. The Secretary will insert the words suggested by the Senator from Massachusetts.

The Secretary read as follows:

It is further agreed that if the treaty shall fail of ratification, it shall occupy the same position in the proceedings of the Senate that it occupied before the vote was taken.

The VICE PRESIDENT. Is there objection?

Mr. LENROOT. Before the words "of the Senate," as stated by the Secretary, there should be inserted the words "as in Committee of the Whole." When the treaty goes back, it goes back to the Committee of the Whole.

The VICE PRESIDENT. Is there objection?

Mr. GORE. I should like to hear the proposed agreement again stated.

The VICE PRESIDENT. The agreement will be again stated.

The proposed agreement as finally perfected was read by the Secretary, as follows:

It is agreed by unanimous consent that the Senate shall immediately pass to the parliamentary stage of the Senate and will vote therein upon the following resolution:

Resolved (two-thirds of the Senators present and voting concurring therein), That the Senate advise and consent to the ratification of the treaty of peace with Germany signed at Versailles, France, June 28, 1919; and, further, that if the treaty shall fail of ratification it shall immediately be returned to the parliamentary stage of the Committee of the Whole.

Mr. JONES of Washington. I object.

Mr. HITCHCOCK. I move that the treaty be reported to the Senate.

Mr. LODGE. Mr. President, I have made a motion which, I think, has to be disposed of.

The VICE PRESIDENT. Did the Senator from Alabama [Mr. UNDERWOOD] raise the point of order that the resolutions were not in order in Committee of the Whole?

Mr. UNDERWOOD. I raised the point of order that if they were offered as reservations they were not in order. I do not know whether they are offered as amendments or reservations.

Mr. LODGE. They are offered as reservations.

Mr. UNDERWOOD. Then, I make the point of order that they are not in order.

The VICE PRESIDENT. The presiding officer at best only makes a ruling that enables an appeal to be taken and states a question that the Senate will ultimately decide. Hitherto the Senate on many important questions has construed the rules to meet the exigencies of the occasion as the Chair looked at the rules.

The rules of the Senate provide that this treaty shall be first considered in Committee of the Whole; be amended, if desired by a majority of the Senators; be then reported to the Senate, the question there being, Shall the Senate concur in the amendments made in the Committee of the Whole? Then it is amendable in the Senate. When all the proceedings are through the decisions are to be reduced to the form of a resolution of ratification, with or without amendments, as the case may be.

If treaties and the constitutional right of the Senate to advise and consent to the making of them are to be governed by a strict construction of the rules and if it were a matter of first impression, the Chair would be compelled to hold that if there were no amendments made in the Committee of the Whole or in the Senate there could be no form of resolution of ratification other than one providing for a straight ratification of the treaty; but that is in direct violation of the uniform practice of the Senate of the United States.

Reservations, interpretations, and exceptions have gone into many treaties. Some of them have been published in a Senate document, and it is not needful to refer to them.

The Chair may be pardoned for saying one thing which perhaps is not pertinent to the determination of this question. This is the most important treaty that ever was presented to the Senate of the United States. It involves far-reaching consequences to the people of this country and to the people of the world. It took six months to make it; it has taken four months of exhaustive discussion in the Senate up to the present hour to consider it. Recognizing the right of the Senate and realizing that it will exercise that right whether it is agreeable to the Chair or not, the present occupant of the chair is unwilling to make any sort of a technical ruling that will prevent the Senate of the United States from ratifying this treaty either without reservations or with any character of reservations that a majority chooses to put into the resolution of ratification. The Chair is unwilling to construe the rules in so strict and

narrow a way that the treaty may be pigeon-holed or hung up by such narrow construction.

The Chair is going to hold that a majority of the Senate can present whatever it pleases to the Senate in the way of reservations or interpretations, and the Chair thinks that these reservations, as they are called, ought to be considered as in Committee of the Whole in justice to certain Senators of the United States who have been voting against amendments to the treaty, with statements made that they voted against the amendments because they thought they could preserve their views by way of reservation and interpretation. The Chair is unwilling to rule that they shall be put in the position of waiting until the resolution of ratification is presented and then finding themselves confronted with the necessity of voting for a resolution of ratification which contains reservations that do not meet with their views upon the question.

The whole conduct of this treaty since it came into the Senate by the Senate itself impels the Chair to rule that reservations are in order in the Committee of the Whole, to the end that Senators who have voted against amendments may have the opportunity of again presenting the amendments and voting upon them in the Senate if the reservations adopted in the Committee of the Whole are not satisfactory to such Senators. The Chair accordingly overrules the point of order.

Mr. LODGE obtained the floor.

Mr. JONES of Washington. Will the Senator yield to me for just a moment?

Mr. LODGE. I yield.

Mr. JONES of Washington. I objected to the request for unanimous consent a while ago very largely for the reasons the Chair has just stated as the basis of his ruling, of which I heartily approve.

Mr. LODGE. Mr. President, I now, after some interruption, renew the motion which I made two hours ago. I move the adoption of the following conditions and reservations to be incorporated in the resolution of ratification. I have made a modification in the condition which is numbered 1, in regard to making the reservations and understandings a part of the conditional resolution of ratification, by inserting at the proper place the words "by an exchange of notes." I have also made, as Senators will see if they compare it with the print, one or two further changes that are of no importance. I shall ask for a vote on each paragraph separately after they have been read. I think they had all better be read first, so as to go into the Record, and then I shall ask to take up the first one for consideration.

Mr. NORRIS. Mr. President, will not the Senator ask that they be also printed in the form of a bill?

Mr. LODGE. Yes; I ask that they be printed in bill form, as read by the Secretary, for the use of the Senate to-morrow.

Mr. McCUMBER. Mr. President, I understand that there is also submitted with these reservations a preamble, which is submitted for adoption as well as the several numbered reservations.

Mr. LODGE. I mentioned that, but I referred to it as conditions. It is generally called, and misnamed, a preamble. Of course a preamble always precedes, and never follows, the enacting clause. It is really a declaration of conditions of ratification, that has been called commonly the preamble.

Mr. McCUMBER. The point I wanted to ascertain was whether or not the Senator, in asking for a vote upon each of these separately numbered reservations, would also ask for a vote upon what is commonly designated a preamble.

Mr. LODGE. Yes; I certainly shall, and it is numbered 1 in what I have sent to the desk.

The VICE PRESIDENT. The Secretary will read as requested.

The Secretary read as follows:

The following conditions and reservations are proposed, to be incorporated in the resolution of ratification:

"1. The reservations and understandings adopted by the Senate are to be made a part and a condition of the resolution of ratification, which ratification is not to take effect or bind the United States until the said reservations and understandings adopted by the Senate have been accepted by an exchange of notes as a part and a condition of said resolution of ratification by at least three of the four principal allied and associated powers, to wit, Great Britain, France, Italy, and Japan."

"2. The United States so understands and construes article 1 that in case of notice of withdrawal from the league of nations, as provided in said article, the United States shall be the sole judge as to whether all its international obligations and all its obligations under the said covenant have been fulfilled, and notice of withdrawal by the United States may be given by a concurrent resolution of the Congress of the United States."

"3. The United States assumes no obligation to preserve the territorial integrity or political independence of any other country or to interfere in controversies between nations—whether members of the league or not—under the provisions of article 10, or to employ the military or naval forces of the United States under any article of the treaty for any purpose, unless in any particular case the Congress,

which, under the Constitution, has the sole power to declare war or authorize the employment of the military or naval forces of the United States, shall by act or joint resolution so provide.

"4. No mandate shall be accepted by the United States under article 22, Part I, or any other provision of the treaty of peace with Germany, except by action of the Congress of the United States.

"5. The United States reserves to itself exclusively the right to decide what questions are within its domestic jurisdiction and declares that all domestic and political questions relating wholly or in part to its internal affairs, including immigration, labor, coastwise traffic, the tariff, commerce, the suppression of traffic in women and children, and in opium and other dangerous drugs, and all other domestic questions, are solely within the jurisdiction of the United States and are not under this treaty to be submitted in any way either to arbitration or to the consideration of the council or of the assembly of the league of nations, or any agency thereof, or to the decision or recommendation of any other power.

"6. The United States will not submit to arbitration or to inquiry by the assembly or by the council of the league of nations, provided for in said treaty of peace, any questions which, in the judgment of the United States, depend upon or relate to its long-established policy commonly known as the Monroe doctrine; said doctrine is to be interpreted by the United States alone and is hereby declared to be wholly outside the jurisdiction of said league of nations and entirely unaffected by any provision contained in the said treaty of peace with Germany.

"7. The United States withholds its assent to articles 156, 157, and 158 and reserves full liberty of action with respect to any controversy which may arise under said articles between the Republic of China and the Empire of Japan.

"8. The Congress of the United States will provide by law for the appointment of the representatives of the United States in the assembly and the council of the league of nations and may, in its discretion, provide for the participation of the United States in any commission, committee, tribunal, court, council, or conference, or in the selection of any members thereof, and for the appointment of members of said commissions, committees, tribunals, courts, councils or conferences, or any other representatives under the treaty of peace, or in carrying out its provisions, and until such participation and appointment have been so provided for and the powers and duties of such representatives have been defined by law, no person shall represent the United States under either said league of nations or the treaty of peace with Germany or be authorized to perform any act for or on behalf of the United States thereunder, and no citizen of the United States shall be selected or appointed as a member of said commissions, committees, tribunals, courts, councils, or conferences, except with the approval of the Senate of the United States.

"9. The United States understands that the reparation commission will regulate or interfere with exports from the United States to Germany, or from Germany to the United States, only when the United States by act or joint resolution of Congress approves such regulation or interference.

"10. The United States shall not be obligated to contribute to any expenses of the league of nations, or of the secretariat, or of any commission, or committee, or conference, or other agency, organized under the league of nations or under the treaty or for the purpose of carrying out the treaty provisions, unless and until an appropriation of funds available for such expenses shall have been made by the Congress of the United States.

"11. If the United States shall at any time adopt any plan for the limitation of armaments proposed by the council of the league of nations under the provisions of article 8, it reserves the right to increase such armaments without the consent of the council whenever the United States is threatened with invasion or engaged in war.

"12. The United States reserves the right to permit, in its discretion, the nationals of a covenant-breaking State, as defined in article 16 of the covenant of the league of nations, residing within the United States or in countries other than that violating said article 16, to continue their commercial, financial, and personal relations with the nationals of the United States.

"13. Nothing in articles 296, 297, or in any of the annexes thereto or in any other article, section or annex of the treaty of peace with Germany shall, as against citizens of the United States, be taken to mean any confirmation, ratification, or approval of any act otherwise illegal or in contravention of the rights of citizens of the United States.

"14. The United States declines to accept as trustee or in her own right any interest in or any responsibility for the government or disposition of the overseas possessions of Germany, her rights and titles to which Germany renounces to the principal allied and associated powers under articles 119 to 127, inclusive.

"15. The United States reserves to itself exclusively the right to decide what questions affect its honor or its vital interests and declares that such questions are not under this treaty to be submitted in any way either to arbitration or to the consideration of the council or of the assembly of the league of nations or any agency thereof or to the decision or recommendation of any other power."

Mr. LODGE. Mr. President, I now ask to take up for action paragraph No. 1. When I made my motion, I moved them all as the report of the committee, and I gave notice that I should ask for a vote on each paragraph. I now ask for a vote on the first paragraph.

The PRESIDENT pro tempore. The Chair is of the opinion that any Senator has a right to a division.

Mr. JOHNSON of California. Mr. President, I ask permission to present reservations, in order that they may be printed and put upon the desks of Senators in the morning.

The PRESIDENT pro tempore. That action will be taken.

The reservations are as follows:

The Senate of the United States advises and consents to the ratification of said treaty with the following reservations and conditions, anything in the covenant of the league of nations and the treaty to the contrary notwithstanding:

When any member of the league has or possesses self-governing dominions or colonies or parts of empire which are also members of the league, the United States shall have representatives in the council and assembly, and in any labor conference or organization under the league or treaty, numerically equal to the aggregate number of representatives of such member of the league and its self-governing dominions and colonies and parts of empire in such council and assembly of the league and labor conference or organization under the league or treaty;

and such representatives of the United States shall have the same powers and rights as the representatives of said member and its self-governing dominions or colonies or parts of empire; and upon all matters whatsoever, except where a party to a dispute, the United States shall have votes in the council and assembly, and in any labor conference or organization under the league or treaty, numerically equal to the aggregate vote to which any such member of the league and its self-governing dominions and colonies and parts of empire are entitled.

Whenever a case referred to the council or assembly involves a dispute between the United States and another member of the league whose self-governing dominions or colonies or parts of empire are also represented in the council or assembly, or between the United States and any dominion, colony, or part of any other member of the league, neither the disputant members nor any of their said dominions, colonies, or parts of empire shall have a vote upon any phase of the question.

Whenever the United States is a party to a dispute which is referred to the council or assembly and can not, because a party, vote upon such dispute, any other member of the council or assembly having self-governing dominions or colonies or parts of empire, also members, upon such dispute to which the United States is a party, or upon any phase of the question, shall have and cast for itself and its self-governing dominions and colonies and parts of empires, all together, but one vote.

The PRESIDENT pro tempore. The Secretary will state the first reservation offered by the Senator from Massachusetts on behalf of the committee.

The Secretary read as follows:

1. The reservations and understandings adopted by the Senate are to be made a part and a condition of the resolution of ratification, which ratification is not to take effect or bind the United States until the said reservations and understandings adopted by the Senate have been accepted by an exchange of notes as a part and a condition of said resolution of ratification by at least three of the four principal allied and associated powers, to wit, Great Britain, France, Italy, and Japan.

The PRESIDENT pro tempore. The question is upon the adoption of the reservation.

Mr. THOMAS. Mr. President, before the vote is taken I wish very briefly to outline my reasons for voting against the first reservation.

If I understand that proposal correctly, it imposes a condition upon the principal allied powers whereby our ratification of the treaty is not to become effective until at least three of them shall accept the reservations which it is proposed to insert in our resolution of ratification. That, of course, means that if only two of the principal allied powers shall accept these reservations, the treaty will not be ratified at all. I am opposed, Mr. President, to imposing conditions upon the allied powers in our resolution of ratification. I do not pretend to be entirely familiar with the effect of a reservation in a resolution of ratification. But generally speaking, my understanding is that it differs from an amendment in that it may be accepted by acquiescence or otherwise by the other treaty-making or signatory powers; and that is as it should be.

Our exercise of the right to determine the conditions of ratification is a right the interference with which by any other nation we would resent, and I am inclined to think that if a resolution of ratification by one of the principal allied powers containing a similar preamble or condition should be laid before the Senate by the President, we would not regard it with equanimity. It would seem to dictate, or to be an announcement which would be the equivalent of, "Take it or leave it as you may determine; but unless it is taken with the condition the treaty will fail of ratification."

I do not believe, Mr. President, if we have the right, which may be conceded for the sake of argument, to attach such a condition to a resolution of ratification, that it consists with the comity and courtesy which should at all times prevail in the intercourse of nations with each other, and especially in reference to agreeing upon covenants which are to have the force of international law.

I prefer, therefore, Mr. President, that the reservations should be made in the ordinary course, and that the resolution of ratification should be silent on such a condition. If it be true that reservations do not require the affirmative action of the other signatory powers, but become a part of the treaty unless they are expressly rejected, then certainly these conditions are not necessary. If it be true that we are willing to accept the treaty with certain reservations, let us insert those reservations without adding any conditions whatever.

I am not concerned whether Great Britain or France or Italy or Japan shall act upon a condition or an alternative placed before them. What I am concerned with, and only concerned with, are such reservations as seem to me to be absolutely essential for the protection of the United States.

To my mind it is plain, and if I am mistaken I want to be corrected, that with the conditions set forth in the first so-called reservation as a part of the resolution of ratification, there can be no treaty, there can be no ratification, except by a compliance with the conditions which we have sought to impose upon other sovereign nations.

I shall for these reasons, Mr. President, vote against the first proposition.

Mr. LODGE. Mr. President, a similar provision asking for the acceptance of a reservation was adopted by the United States in the case of the cession of the Danish Islands. In the treaty with Denmark we inserted a reservation relating to the established church, which was a necessary reservation. We required that we should have the acceptance of that reservation by Denmark before the treaty became effective. The notes were exchanged as set forth in the President's proclamation. I have the President's proclamation here, which gives the whole thing. After stating the reservation in the proclamation, it says:

And whereas it was further provided in the said resolution "That the Senate advises and consents to the ratification of the said convention on condition that the attitude of the United States in this particular, as set forth in the above proviso, be made the subject of an exchange of notes between the Governments of the two high contracting parties, so as to make it plain that this condition is understood and accepted by the two Governments, the purpose hereof being to bring the said convention clearly within the constitutional powers of the United States"

And whereas this condition has been fulfilled by notes exchanged between the two high contracting parties on January 3, 1917;

And whereas the said convention has been duly ratified on both parts, and the ratifications of the two Governments were exchanged in the city of Washington, on the 17th day of January 1917:

Now, therefore, be it known that I, Woodrow Wilson, President of the United States of America, have caused the said convention to be made public—

And so forth.

There is, therefore, nothing new in this.

Mr. THOMAS. But, Mr. President, does not the Senator think there should be a distinction between a treaty which amounts to nothing more nor less than a contract between two nations for the purchase of territory, and a treaty like this, which involves nearly every subject under the sun, and which is designed as a treaty of peace to close the World War?

Mr. LODGE. I see no distinction whatever in principle. If we can make such a reservation to one power we can make it to others, and I do not see how by any ingenuity there can be found to be anything rude in asking for an exchange of notes. Of course, every one of these reservations, if they are adopted, is open to objection by the other signatories. The effect of this exchange of notes with three of the principal allied and associated powers would simply be to expedite the acceptance of the treaty. If they accept it, we need not fear objection from the others. The treaty would come into effect at once, and there would be no misunderstandings, which are to be avoided, in my judgment; and it seems to me a wise and necessary provision.

I can not understand the idea that there is anything rude in asking in a negotiation that powers should accept a reservation. I think this treaty is rather too important for us to consider questions of etiquette and manners. But there is no question of etiquette and manners here. It has been done before without any objection whatever. How could anybody take offense at it? I can not see the force of that objection. On the other hand, I think it is distinctly promotive of a prompt and good understanding. We are following precisely the precedent we ourselves set in the Danish treaty.

Mr. McCUMBER. Mr. President, we are following to some extent the precedent established in the Danish treaty. We are not following to any extent the precedent established in any other treaty, so far as I can understand. This same matter was up before the Committee on Foreign Relations, not exactly in the same form in which it appears before the Senate at the present time, but in a form that meant precisely the same thing, and I wish to read from the reservations which have been printed, and which were first presented by the chairman of the Committee on Foreign Relations. I expect to show, Mr. President, that there is a vice in this request for a formal acceptance that Senators have not probably given full consideration. As it appeared before the Committee on Foreign Relations, this is the way the preamble, which is now No. 1 of the reservations, read:

The committee also report the following reservations and understandings to be made a part and a condition of the resolution of ratification, which ratification is not to take effect or bind the United States until the said following reservations and understandings have been accepted as a part and a condition of said instrument of ratification by at least three of the four principal allied and associated powers, to wit: Great Britain, France, Italy, and Japan.

When this matter was before the Committee on Foreign Relations, I moved to strike out all after the word "ratification," which would include "which ratification is not to take effect or bind the United States" until these other powers shall formally accept our several reservations.

Mr. President, I again move to strike from No. 1 of the reservations all after the words "resolution of ratification." As I have not before me the original as it is now presented, I can not give the lines.

But, Mr. President, the preamble, or the introductory reservation, would then read:

The committee also report the following reservations and understandings to be made a part and a condition of the resolution of ratification.

So far, Mr. President, as this country is concerned, these retained words answer every possible legitimate purpose. They make it clear that the reservations are to be made a part and a condition of the resolution of ratification. To the extent that these reservations relieve the United States from any obligation under the compact, that compact is, in effect, modified so far as the United States is concerned. It is an amendment of the treaty so far as the United States is concerned. While it binds others, it binds us only to the extent by which we have bound ourselves in the acceptance of any particular article, and when we file our acceptance of this treaty, with its reservations, we make the reservations a part of the treaty, and every other nation must take cognizance of them whether we say another word or whether we ask them to do anything else. These reservations are just as much a part of this treaty as though they had been written into the body of the instrument in the first instance. No Senator, therefore, who seeks to compel other countries to any formal declaration of consent to these reservations would have the audacity to claim that such an acceptance is necessary to give validity or effect to our reservations. It is not necessary.

They know, as everyone knows, that if our acceptance is a qualified one, we have modified it in so far as our interests are concerned to the extent of the qualification, and every other party to the treaty must take cognizance of the extent to which we have bound ourselves and the extent to which we have freed ourselves from any one of the obligations or the provisions of the treaty.

I believe that not a single supporter of this preamble, in the form proposed by the committee, would ever contend upon the floor of the Senate or elsewhere that the failure of any or the failure of all of these other nations to the treaty, these parties to the contract, to formally declare their acquiescence in it in any possible way would in the slightest degree detract from their effectiveness.

It is worse, then, than idle to say that this is proposed to the end that there shall be no misunderstanding in the future. It is deceptive of the real purpose of the provisions. This resolution of reservation, with its conditions and qualifications, as I have stated, becomes a part of the instrument and will be filed with it, and it will have just exactly the same meaning and be just as binding upon the other powers whether those powers say "Yes" or whether those powers refrain from saying anything. No one in the Senate doubts that.

While we have in one or two instances—and I can only find one in my examination—asked for the acceptance of a reservation from the other party to the contract, it has been only where there has been one party, and only where the question was one of the United States being compelled to notify the other party that under our Constitution we could not adopt a state religion for any islands which we purchased, and we wished them to fully recognize that that could not be done under the Constitution, and therefore we asked an exchange of notes upon that subject.

It is clearly evident, however, Mr. President, that an entirely different purpose, a purpose entirely outside of the necessity for formal acceptance of these reservations, is intended. The very first question that arises in our minds as we read this preamble is this: If assent of other powers is necessary that others should also understand it, why does the preamble limit the formal assent to three out of four? There are 32, I believe, who have signed the treaty. Why, if we want them all to understand it, do we say that three, naming them, out of a certain four shall accept it? If formal assent is necessary, why is it not just as necessary that each and every other party to the compact should give its formal assent, or, taking the first instance, why should we say that it should be done by at least three out of the four? Why not say that it should be done by all of the four instead of three out of the four?

Mr. BRANDEGEE. Mr. President—

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Connecticut?

Mr. McCUMBER. I yield.

Mr. BRANDEGEE. I think, if the Senator will pardon me, that this very number was arrived at because that is the identical language of the treaty, providing that the treaty itself shall go into full force and effect when ratified by three of the principal powers.

Mr. McCUMBER. But I do not see that that has the slightest thing to do with it.

Mr. POMERENE. Mr. President—

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Ohio?

Mr. McCUMBER. Certainly.

Mr. POMERENE. The Senator from Connecticut fails to distinguish as to the character of these different parties. When the provision of three out of four was made in the treaty it related to the peace relations between those three and the common enemy. This provision relates to the status of the four allies themselves and our relation to them.

Mr. McCUMBER. And that is not all. That refers to the entire peace treaty, while this acceptance only refers to our particular reservation.

Mr. NORRIS. Mr. President—

Mr. McCUMBER. I yield to the Senator from Nebraska.

Mr. NORRIS. I did not clearly understand the Senator from Ohio, so I may be covering the ground which he has already covered. I am interested in what the Senator from North Dakota is saying and I have been very much in doubt as to what this particular preamble, if you call it such, means. Suppose these reservations were agreed to by Japan, Italy, and France. That would be three. First, would the reservations be in force as to Great Britain?

Mr. McCUMBER. They would not. That is not all; the treaty would not be in force.

Mr. NORRIS. If that is true, it seems to me, since the treaty itself provides that it shall be in force as to three when they have agreed to it, and if it should happen to be a different three, we might have a bad situation. What kind of a dilemma would we be in with the treaty in a situation of that kind?

Mr. McCUMBER. This is an expression of our ratification of the treaty. Now, though the Senate ratifies the treaty, it places it in the hands of another country by its silence to avoid the ratification of the United States. That is the vicious part of it. But I wish to follow the thread of my argument to arrive at what was really intended.

Mr. President, throughout the long discussion of reservations by the Committee on Foreign Relations a majority of that committee have insistently, and I may say also consistently, opposed any wording in the reservation that would give the language of the treaty a construction that would be binding on all members of the treaty. They declared that this was not our purpose, that we were concerned only with the construction which we should apply to the treaty wherever we were concerned, and if other nations were willing to abide by a different construction between themselves, that was their exclusive concern, and it was none of our affair. So we declare in our reservations, "The United States so understands and construes," "the United States reserves to itself," "the United States assumes no obligations," "the United States will not submit," and so forth. We everywhere purposely refrain from either binding or asking any other nation to be bound as between themselves by our reservations.

As there can be no legal necessity for any formal acceptance of our reservations by other powers, there must be some other thought or sentiment responsible for this demand. We do not need to look very far to find it. It has manifested itself in nearly every proposed amendment. Like a gliding serpent, it is now concealed and now revealed throughout all of the different phrases of the reservations prepared by the committee.

It is the sentiment of malice, of hatred toward the covenant, which is so great that it irresistibly seeks to vent itself upon the wounded and bleeding nations, who, in their anguish and misery beyond description, have sought by this instrument to prevent a recurrence of such an awful tragedy to their country.

We have not been satisfied to demand special rights and privileges. We have demanded them in words of haughtiness and abruptness and inconsiderateness that could not but leave a sting.

Harsh and stern as were the terms necessarily imposed upon Germany by this treaty, the language of the victor toward the vanquished was far more considerate and moderate than that often used to evidence our dissent from features of the treaty prepared by our own envoys in conjunction with those of other friendly powers.

Now, undoubtedly the hardest clause of this treaty and the one most repugnant to the sensitiveness and the pride of the German envoys was that which compelled them to publicly declare and accept for their country the sole responsibility for this ungodly war and all the loss and damage resulting therefrom, which exacted from them a plea of guilty of all of the offenses and all of the atrocities they committed in this sanguinary conflict. Yet, Mr. President, we and our allies deemed this admission necessary and proper not only as a justification, but as a basis for assessing damages against the German Empire and her allies.

There, however, we were dealing with an enemy whose conduct during the war had been most cruel and shocking. Recognizing bitterness on the part of those who suffered from those atrocities, it was most natural that language should be firm and should be even dictatorial.

But in this treaty we are dealing with our allies, with those whom we called friends as long as they were fighting our battle with us, those who not only fought with us but did most of the fighting, most of the dying, most of the suffering in defense of a great world principle, in a war which we acknowledged was, in its ultimate possibilities, as much our war as it was the war of any other country. Now, why should we treat them as a hated enemy?

If we must insist upon rights and privileges on our part which are not accorded other nations, if we must compel all the other members to occupy a position of inferiority, if, in order to secure our consent to this league of nations, it is necessary for them to surrender their own equality, why should we seek to make them come out publicly and openly and make acknowledgment that in their dire distress, so impoverished by this war that they dare not contemplate the possibility of another, they are compelled to acknowledge that our support of the league to prevent its recurrence could only be purchased by conceding to us special rights and special privileges?

If it is not necessary, why should we seek any exultant joy in compelling them publicly to swallow their bitter pill? I confess I can not understand this spirit.

Article 10 of the treaty imposes a moral obligation upon every member of the compact to protect the territorial integrity and political independence of every other member from external aggression. By our second reservation we excuse ourselves from such obligation unless our Congress in its wisdom should so declare when the occasion arises. That is probably one of the most important obligations to be found in the league of nations provisions. We hold ourselves aloof from these other nations. They are bound to come to the defense of any other nation whose territory is invaded for an aggressive purpose by any other nation, but under our reservation we are not compelled to do so.

Again, under the terms of the treaty, while purely domestic concerns are withheld from consideration by either council or assembly, whether the dispute does or does not involve an international matter, must, under the treaty, necessarily in the end be decided by the council or assembly. In other words, if a controversy arises as to whether a question is a domestic or an international question, the council or the assembly must, under the treaty as it now stands, determine that question. But by the fourth reservation we can hold ourselves superior to those rules which would govern other members of the compact and reserve to ourselves exclusively the right to decide what questions are within our domestic jurisdiction and what questions are without it. The same thing is true in respect to the Monroe doctrine. While the treaty excepts the Monroe doctrine from consideration, questions might naturally arise whether a dispute would fall within the scope of the Monroe doctrine, and that would necessarily require a decision by the council or the assembly as to what the Monroe doctrine is. But here again we place ourselves above and superior to our copartners in this world league and maintain that the United States is to be the sole judge whether a matter falls within the Monroe doctrine.

I am not claiming that that is not as it should be; but what I am insisting upon is that we hold a position superior to that of the other nations in that respect, and necessarily place them in an inferior position before this brotherhood of great nations.

Mr. President, there are numerous other provisions in our reservations which reserve to ourselves rights and privileges not accorded other members of the league. Such special privileges, of course, destroy the equality principle in the league of nations. The other nations, dealing with each other with entire equality, granting and reserving no privilege that is not granted or reserved to others, must necessarily feel a degree of chagrin if not of resentment at our assumed superiority. But, measuring the benefits which they hope to secure by this agreement and recognizing that they have been nearly bankrupted by this war, they will undoubtedly bow their pride and acquiesce in the conditions we impose. Under those circumstances ought we not to exhibit a spirit of generosity? That is all. Ought we not to be just a little considerate of those countries and at least allow them the right of silent acquiescence, which we have allowed in every other treaty where we have made reservations, except, possibly, the one with reference to the Danish Islands?

There have been a number of occasions in our own history when a President has found it necessary either to allow a bill

to become a law without his signature or to veto it. Often a President may find in a bill that which is repugnant to his idea of right and justice, but he may find other things in the bill which are absolutely necessary for the carrying on of governmental functions, as, for instance, in the case of bills to raise revenue and appropriations bills. He does not wish to give his adherence to the one objectionable provision, and, therefore, he allows the bill to become a law by acquiescence, by allowing it to remain for 10 days without putting his signature to it. I can recall the case of a revenue bill having been so treated by President Cleveland, and other similar cases might be cited.

Do you not think, Mr. President, that the least we can do, if we adopt these reservations, is to allow the other countries to acquiesce in our construction and our special privileges, without an attempt to "rub it in," for that is really all there is in this?

Mr. SMITH of Georgia. Mr. President—

The PRESIDENT pro tempore. Does the Senator from North Dakota yield to the Senator from Georgia?

Mr. McCUMBER. I yield.

Mr. SMITH of Georgia. Has the Senator from North Dakota explained just what he considers will amount to acquiescence?

Mr. McCUMBER. Anything which is done under the treaty, any action taken under it by the other powers, the appointment of commissions, the making of no objection whatever; their silence would be equivalent to acquiescence. We have again and again ratified treaties in which we have made special reservations, and no exchange of notes has passed between us and other nations.

Mr. SMITH of Georgia. If they should be notified by our Government of these reservations and yet made no objection, the Senator would consider that an acquiescence?

Mr. McCUMBER. Certainly; and they would be bound by the treaty. They will make no objections, because they can not make objections. I do not think, as some Senators believe, that the treaty would go back to the peace conference if we leave it in that way; and I prefer to leave it in that way. If the Senator from Georgia and myself have such relations between us that he is in a position to exact from me conditions which he knows place me in an inferior position to himself, as a considerate gentleman he would allow me at least to accept his proposal without compelling me to come out and acknowledge that he is my superior and that I must under the exigencies of the case accord to him superior rights.

Mr. SMITH of Georgia. But the Senator would have in the resolution of ratification a provision that the provisos shall become a part of such ratification?

Mr. McCUMBER. Certainly. I leave that in.

Mr. SMITH of Georgia. So that the ratification would not be binding except with the provisos?

Mr. McCUMBER. Oh, yes; they become a part of the treaty; there is no question about that. I leave in the first reservation these words:

The committee also report the following reservations and understandings to be made a part and a condition of the resolution of ratification.

Mr. SMITH of Georgia. As a condition of such ratification?

Mr. McCUMBER. It is a condition of the ratification. All the reservations are a condition of the ratification. In other words, we ratify the treaty with these conditions, and therefore they become a part of the ratification and a part of the treaty itself.

While we have been voting down amendments because we wished to avoid further delay and believe we can accomplish everything we seek by proper reservations, we are to be trapped into the same situation by compelling a ratification of the reservations by the other powers. I know that since first written the Senator from Massachusetts [Mr. Lodge] has changed the method of the assent of the other powers by providing that it shall be by a mere exchange of notes, but, after all, it means practically the same thing.

Mr. President, dull indeed must be he who fails to comprehend that there can be no possible difference between compelling a reconsideration to accept particular reservations and compelling a reconsideration by reason of amendments. If the acceptance of these reservations must be had by each nation separately without reconvening the peace conference, then amendments could be dealt with exactly in the same way by each one of the separate nations.

Mr. SMITH of Georgia. Would it interrupt the Senator if I should ask him another question?

Mr. McCUMBER. No; I yield to the Senator.

Mr. SMITH of Georgia. Are not some of the reservations that we contemplate making—at least, some that I contemplate supporting—such as involve entirely our own conduct inside

of this country as between the act of the President and the act of Congress? Ought we to call on the foreign nations to express any opinion at all about such a question? Is that not another reason why it is desirable that there should be merely acquiescence rather than formally expressed approval?

Mr. McCUMBER. Yes. I was going to mention that further on, but I can refer to it right now. The reservations provide how we shall appoint members to various committees or commissions and provide that no appointment shall be made until Congress has provided for it by law. That is not a matter of any concern whatever to the other countries; that is our own concern. We should not ask them to acquiesce in our congressional acts or in congressional acts which we propose to provide for in the resolution.

Mr. SMITH of Georgia. Or to formally express approval of them.

Mr. McCUMBER. The other apparent purpose, I say candidly, is to defeat the treaty by this unique process. In other words, we are to ratify the treaty by the United States Senate, and leave a string in the hands of a foreign power to undo what the United States has done. That is exactly what it means. It is a surrender to those who will vote against the treaty. It is a new method of killing the treaty after we have adopted it. Those who have formulated this provision have done so with the hope that any action of the Senate in ratifying this treaty may be undone and the ratification changed into a rejection by us by reason of the failure of certain other nations to accept formally our special reservations.

No one can doubt that. All that can be said in defense of it is that we have only put it in the hands of four powers to set aside our ratification, instead of placing it in the hands of all of them.

The authors of this preamble know that if the sixth one of these reservations, for instance, should pass the Senate, Japan could not and would not formally accept it. That would put Japan out of the case entirely. They understand that, and that is why they use the language that the reservations shall be accepted by three out of the four. They ought to know that it could not possibly be covered up if you said all of them, because they understand as well as any Senator understands that it would be impossible for Japan, if she is a nation to be respected by her own people, to have the United States take from her territory that she obtained through the struggle in this great war, to deprive her of her right of conquest.

That would put Japan out. It would also, in my opinion, put Italy out. Italy to-day is smarting under her failure to secure Fiume; and should she decline openly to vote to give the United States these special privileges, although naturally she would take no steps to negative our action, such nonaction on her part would nullify our acceptance. Now, why should we place in the hands of Italy the power to nullify a ratification by the Senate of the United States?

Or suppose France should say, "While we are so situated that we can not oppose these special privileges and reservations by the United States, and while we will accept them in silence, we can not afford to say to our people, by any positive action or legislation, that we do not come into this league of nations on an equality with the greatest power in it." Any failure on the part of France to acknowledge formally our superior claims would change our acceptance into a rejection, because that is the way the preamble reads.

I can not understand, Mr. President, how any Senator who could vote against amendments, for any of the reasons that have been given for voting against them, can now turn around and vote for this preamble proposition, designed to effectuate the very purpose which by his vote he declared should not be effectuated, namely, the final defeat of this treaty.

There can be no question, Mr. President, as to the meaning of this preamble, because it says "which ratification is not to take effect or bind the United States until the said reservations and understandings" have been accepted as a part and condition of the resolution of ratification by these other powers. The ratification is not to take effect until then. In other words, when we vote for the ratification of this treaty we have not voted for its ratification. We have voted to hold it in abeyance until three out of four other powers shall say that the ratification of the United States Senate shall have effect.

Is it not the most unique proposition that was ever put up to the Senate of the United States—this effort to defeat the solemn ratification of a treaty by putting into the hands of four foreign powers the rope that is to strangle it? I can not vote for that proposition, Mr. President.

Mr. EDGE. Mr. President, I have voted very consistently against all of the amendments that have been proposed to the pending treaty. I have voted against them mainly for two rea-

sons, which I have partially explained from time to time upon the floor of the Senate—one as a matter of expedition in disposing of the treaty; the other, a conviction that the Senate of the United States was primarily concerned when considering the treaty in positively and absolutely protecting the independence and sovereignty of our own country, rather than attempting to rewrite the document which in effect we would be doing by amending it textually, and being unequipped with the information necessary to rewrite it. By an amendment, we attempt to control another's destiny; by a reservation, we are only asserting our own position. But in voting against amendments I have stated, and want to take this opportunity to reiterate, that I do not want any question, so far as my vote is concerned, as to the protection of the independence and sovereignty of our own country; and in considering reservations which are now coming before us I hope the reservations will thoroughly protect this country in the manner that it must be protected.

This is too important a matter, Mr. President, to depend even upon precedent—the precedent that silence means acquiescence. I believe precedent has established that in similar negotiations; but this is not a negotiation between two nations. It is a negotiation or a covenant between practically all of the nations of the world; and, so far as I am concerned, when we adopt reservations—which we will, I am sure, and which we must, so far as my vote for final ratification is concerned—I can see no logical reason why we should not, through a courteous exchange of notes, at least, have those reservations agreed to by a majority of the nations involved.

It seems to me it is a matter that hardly merits argument. If they object or any one of them objects to the reservations we make or to any one of the reservations we make, and will not join with us because of that objection, they certainly must say so. They must reduce it to writing. If they do not object, then there can be no reason in the world why likewise they should not say so.

Therefore, even though silence may be acquiescence, and thus treaty negotiations be understood and their understandings carried out, in a matter so important as this, practically forming a new government, I think we owe it to the people of the United States that when we complete our reservations at least an exchange of notes in agreement from three of the four other powers should be demanded by this country.

I feel, again trying to emphasize my position as I look upon reservations as compared to amendments, that we can not go too far. I will qualify that. I do not mean that we can go so far with reservations as to render impossible a league of nations. I am not prepared for that, because I want to see a league of nations, and I want to see it function, and I want to see the moral influence of this country exerted. As we evaded no responsibility in war, we should not in times of peace. But I believe these reservations should be so positive that we will have an anchor to windward now, so that, when any question is raised, our representative in the league of nations or in the council will be in such a position that the honor of this country will be in no way involved in a position that he may take under our reservations.

This certainly involves no humiliation on the part of our allies. In making our reservations we in no way deny them a like privilege.

Therefore, in a matter so important, I can not conceive how the Senate would be doing its full duty, if a majority of this body agree that reservations shall be made, not to have that frankly and positively understood by an ordinary exchange of diplomatic notes.

Mr. THOMAS. Mr. President, the instance which the Senator from Massachusetts cited a few moments ago in support of the authority of the Government to require an express acquiescence in such reservations as we may attach to our resolution of ratification does not seem to me to be an apposite one. I differ from the Senator from Massachusetts upon subjects of international concern and the exercise of the treaty-making power with a good deal of hesitation, for the Senator's experience and the long time of his service in the Senate of the United States give him the right to speak by authority.

I am unable, however, to perceive the analogy between the imposition of a condition to the ratification of a treaty with one nation, the object of which is to secure territory by purchase, and which partakes, therefore, of a purely commercial nature, and the situation which confronts us in our consideration of such a treaty as this. This is a document prepared by 32 nations on one side and 1 nation on the other, and the condition which this first reservation imposes is not imposed upon Germany, which is the other party to the document, but upon our own allies and associates, with whom we have so far conditionally agreed.

It would seem that the mere statement of such a difference was conclusive of the proposition. But if it is not, then, as was well said by the Senator from North Dakota [Mr. McCUMBER], there can be no logic or consistency in requiring the assent or the ratification of but 3 of these 32 powers as necessary to make our ratification effective. I am unable to perceive why, if any such express assent by one or more of our associates is necessary, it is not more necessary to demand the same assent from Germany.

Had there been other analogies or precedents, I am sure the Senator from Massachusetts [Mr. LODGE] would have given them to the Senate. The fact that there is but one, and that concerning a treaty for the purchase of the Virgin Islands, and the condition being one which our Government deemed essential to the consummation of the purchase, it should stand upon a far different basis morally and in dignity from an agreement like this, which seeks to conserve the common interests of 32 nations in a treaty of peace following the close of the greatest war of history.

I again say, Mr. President, that we should concern and content ourselves with the imposition in our resolution of ratification of every reservation which in our judgment is necessary to safeguard and protect our interests, leaving it to our associate nations to act as they may choose concerning these reservations, and without virtually notifying them in advance that unless a certain number of them accept these reservations there will be no treaty.

RECESS.

Mr. CURTIS. Mr. President, I move that the Senate take a recess until 11 o'clock to-morrow morning.

The motion was agreed to; and (at 4 o'clock and 50 minutes p. m.) the Senate took a recess until to-morrow, Friday, November 7, 1919, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

THURSDAY, November 6, 1919.

The House met at 12 o'clock noon.

The Chaplain, Rev. Henry N. Couden, D. D., offered the following prayer:

We invoke Thy blessing, Father in heaven, upon all the proceedings of this House, that every question which presents itself may be wisely, justly, amicably disposed of, with perfect urbanity, kindness, and good will among its Members; that the problems disposed of may redound to the good of all and advance the interests of the Commonwealth. In the spirit of the Lord Jesus Christ. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. Dudley, its enrolling clerk, announced that the Senate had concurred in the following concurrent resolution:

House concurrent resolution 30.

Whereas the steamship *Lake Daraga* is expected to arrive in New York on or about November 9, bearing the first bodies of American soldiers from the fields of the World War; and Whereas it is proper and fitting that due recognition be given to the return to our shores of the mortal remains of those men who gave their lives for the cause of freedom: Therefore be it

Resolved by the House of Representatives (the Senate concurring), That a committee of six Members of the House of Representatives, to be selected by the Speaker, and six Members of the Senate, to be selected by the President of the Senate, be appointed to represent the Congress at such appropriate ceremonies at the port of New York as may be determined upon as proper and appropriate.

That the expenses of said committee and of the ceremonies arranged by it shall be paid one-half out of the contingent fund of the House and one-half out of the contingent fund of the Senate on vouchers to be signed by the chairman of the House and Senate committees, respectively.

The message also announced that the Senate had passed without amendment H. J. Res. 241, to suspend the requirements of annual assessment work on mining claims during the year 1919.

ENROLLED BILL PRESENTED TO THE PRESIDENT FOR HIS APPROVAL.

Mr. RAMSEY, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States, for his approval, the following bill:

H. R. 7751. An act authorizing the sale of inherited and unpartitioned allotments for town-site purposes in the Quapaw Agency, Okla.

PERMISSION TO ADDRESS THE HOUSE.

Mr. CLARK of Missouri. Mr. Speaker, I ask unanimous consent that the gentleman from Louisiana [Mr. ASWELL] be permitted to address the House for 35 minutes.